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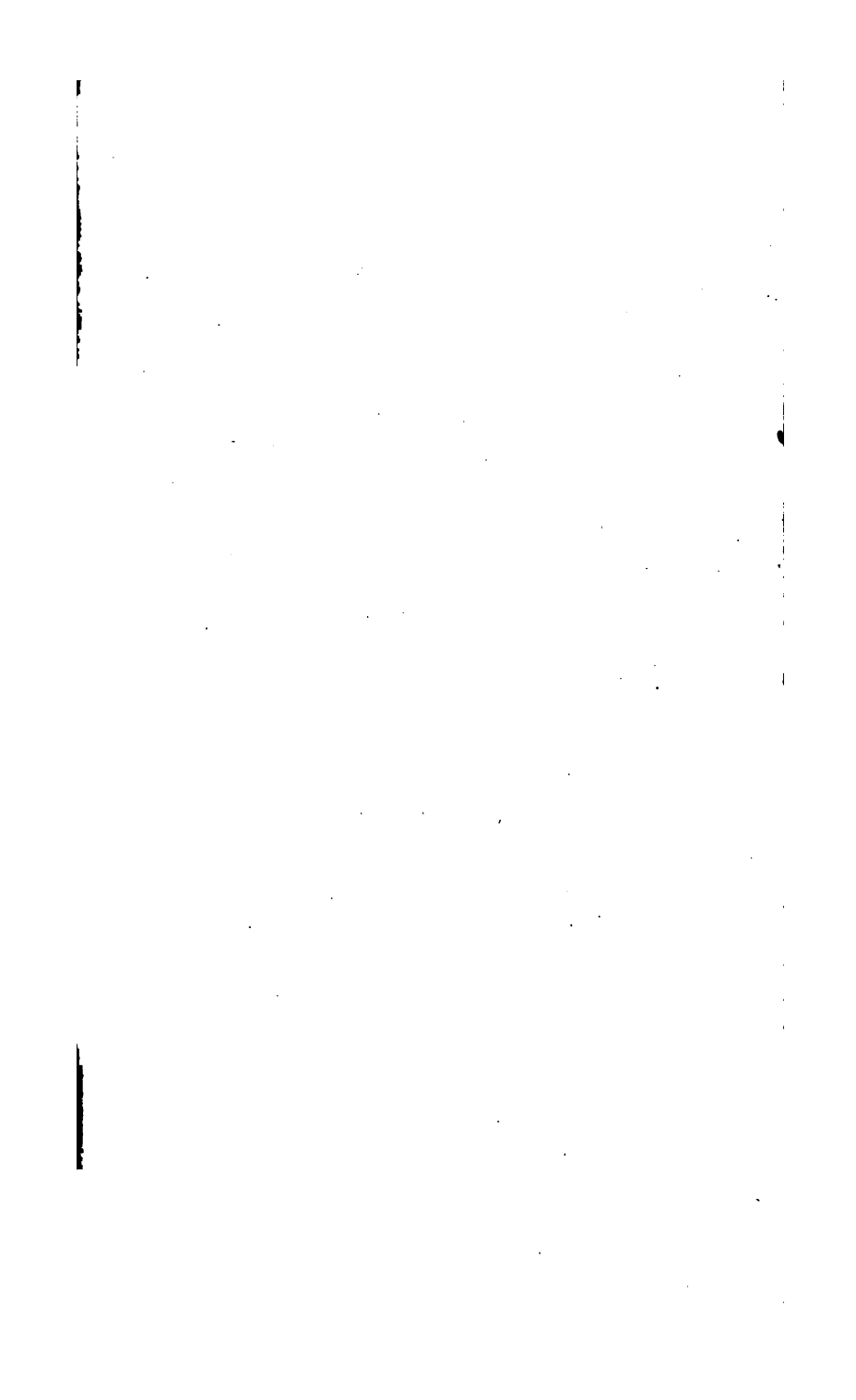
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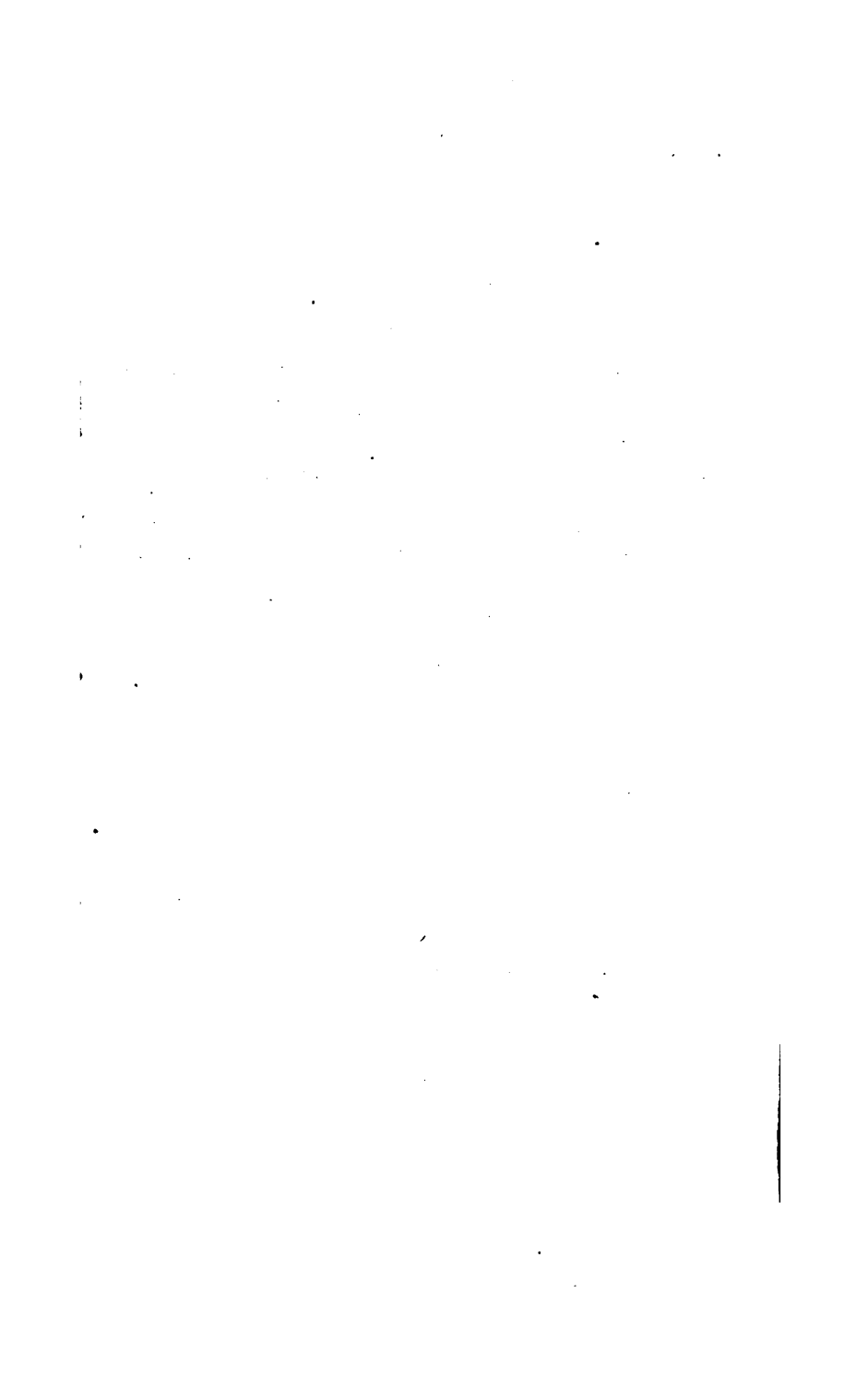
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A
TREATISE
ON
COPYHOLDS, &c.

LONDON :

C. AND E. LAYTON, 150, FLEET STREET.

A
TREATISE
ON
COPYHOLDS
AND
COPYHOLD ENFRANCHISEMENT:

CONTAINING
THE PRACTICAL DUTIES OF THE STEWARD, BAILIFF,
AND OTHER MANORIAL OFFICERS.

BY
ALFRED CASWALL,
OF THE INNER TEMPLE, ESQUIRE, BARRISTER-AT-LAW.

THIRD EDITION,
REVISED AND ENLARGED.

ALSO
THE LATE COPYHOLD ACT, IV. & V. VICT. 35,
WITH SYNOPSIS, ANALYSIS, NOTES, AND INDEX.

LONDON:
C. READER, LAW BOOKSELLER,
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PREFACE

TO

THIRD EDITION.

THE two former editions of this little Work were published during the progress of the various Bills which have, in the course of the last few years, been introduced into both Houses of Parliament; having for their object the conversion of copyholds and lands of customary tenure into freehold.

It was for a long time proposed that this conversion should be effected in a compulsory manner,—rendering it absolute on lords and copyholders to enfranchise voluntarily (if it can be so termed) by a certain day; after which, the compulsory part of the measure was to take effect.

The feeling of the country generally was, however, naturally opposed to so direct an attack upon private rights,—no general advantage to the community being offered as an

equivalent; and, in consequence, after passing through the ordeal of several years' occasional discussion, this portion of the Bill was abandoned; for which, thanks are due (among others) to the Lord Redesdale and Sir Edward Sugden.

The present Act may be divided into three parts;—the first of which proffers terms for a *general commutation* of all the lands in a manor subject to manorial rights; and it is so far compulsory, that the lord and three-fourths in number of the tenants of a manor (the interest of the lord and the interest of the tenants in the manor and lands respectively not being less than three-fourths of the interest in the value thereof respectively) may bind the remaining tenants of the manor.

The second part provides for a *voluntary commutation*, to be effected between the lord and any one or more of the tenants of the manor.

The third part provides for *voluntary enfranchisements*.

With regard to commutations, which are to be corn-rent-charges, on the principle of the tithe commutation, the present discussions on the corn-laws will probably, for a season, operate as a check upon lords of manors friendly to the principle of commutation.

As to enfranchisement, it is always desirable to give every facility to it when both lords and tenants are agreed; it then becomes a matter of personal convenience to all parties, and probably tends to some measure of practical advantage (such as buildings, &c.) in which the community may be the gainers.

On the whole, the Act is likely to become a useful and popular measure.

Copyholders, however, must not run away with the notion, that because commutation and enfranchisement are provided for them, that therefore it is incumbent upon them to select the one or the other without delay. I have attempted in the following pages to give, in as few words as possible, a clear and impartial essay on this tenure, — pointing out its errors and advantages; for it possesses both. Copyholders will weigh them in the universal scale of self-interest, and judge accordingly; remembering still, that enfranchisement is an act of grace on the lord's part, and not a matter of right which they can at pleasure demand.

Filling the office of Steward of the Manors and Courts of the Bishop of Salisbury, and having other engagements of a similar nature, I have seen a good deal of the practical working

of the copyhold system, and have tried to embody, in a concise form, such hints upon it as may be found useful to those whom it chiefly concerns.

I have, it will be found, adverted to the common topic of declamation against copyholds, viz. their dilapidated state—lack of timber and general appearance of decay; but let any man consider how this property is usually managed, especially in ecclesiastical and collegiate manors, and he will see that the fault lies not so much in the system, which he is too apt to condemn without a hearing, as in the strange out-of-the-way fashion in which it is worked out.

For example:—to a manor, or number of manors of the above description, a steward is appointed—usually a professional man—who resides at a distance. He goes down periodically or at irregular intervals to hold a court, and learns of the property, during the few minutes' interval of business that may occur, just as much as the parties principally interested choose to tell him.*

It is in the nature of all things human, if neglected, to fall to decay; and copyhold lands do not claim exemption from the common lot.

* See observations on this subject, p. 91.

But only let lords of manors set to work in earnest, and bestow ordinary care upon these estates, and they will soon become more creditable to themselves and not less so to those holding under them.

Feeling that such care and attention are most necessary, must be my apology for enlarging upon topics which have never, in any treatise on this subject that I have yet met with, been alluded to; and it is only from not having their attention so directed that lords and stewards have gone on, from generation to generation, without maintaining for copyhold lands that forward position in the march of improvement which might fairly have been expected from them.

In selecting for their secretary, Mr. J. Stewart of Lincoln's Inn—a gentleman favourably known to the professional world—the commissioners have offered a fair guarantee for the care and ability with which all matters connected with their office will be conducted. It may, perhaps, be convenient to add here, that the commissioners give notice that they are ready to forward, gratuitously, all forms as they may be successively framed to meet the objects of the late Act, to such lords and stewards as will furnish them with the following particulars; requesting that they will not

address them on the subjects of *tithes and copy-holds* in the same letter:—

1. Name of the manor.
2. Name of the county in which it is situate, and of the parish or parishes which it comprises or in which it is comprised.
3. Name and address of the lord.
4. Name and address of the steward.

A. C.

14, *Gray's Inn Square*,
5th July 1841.

A

TREATISE

ON

COPYHOLDS, &c.

CHAPTER I.

OF A MANOR.

As to the antiquity of manors, we find that the ancient kings of this realm, who had all the lands of England in demesne (*i.e.* in their own hands), did grant a certain compass or circuit of ground to certain lords and great personages, with liberty to parcel the lands out to other inferior tenants, reserving such duties and services as they thought fit, with power to keep courts wherein they might redress misdemeanors and nuisances within such their precincts, and punish the offences of their tenants, and debate and decide controversies of *meum* and *tuum* between them—the said lords performing such services, and paying such rents, &c. as the said kings reserved by such their

grants and donations. And these grantees, being formerly great lords and noblemen, were called barons, and came to Parliament, and from thence the courts so granted are called courts baron, and also the grantees are called lords, and the lands granted are called manors or lordships to this day; though in process of time, by grants and conveyances from such noblemen and barons, the lordships or manors came into the hands of knights and ordinary gentlemen, by purchase, &c., and thus we find them at this day (a).

(a)
Scroggs.

CHAPTER II.

OF COPYHOLDS AND COPYHOLDERS.

THE student will find all information on the subject of Copyholds in the works of Lord Coke, followed by Scroggs, Fisher, Watkins, and Serjeant Scriven; in Bacon's Abridgement, and Comyn's Digest, title Copyhold; in the first volume of Cruise's Digest, and the second volume of Blackstone's Commentaries; in Fearn's Contingent Remainders, and Preston on Conveyancing; besides many other works which he will meet with, without

very extensive reading, and they will well repay him the time and trouble he may expend upon them; for let him be assured that he cannot in a proper manner perfect himself in this branch of legal learning without at the same time making an intimate acquaintance with all the different tenures by which real property is holden. He will be able also to observe how from time to time constitutional law and the freedom of the subject have been advocated, and their progress carried on in a gradual course from the earliest records of civilized society; and, while he marks the slow transition from semi-barbarous to more cultured times, let him not altogether leave unadmired the peaceable and national means by which it was effected. We are apt to look back to the feudal times in which the copyhold tenure first existed as an æra of unmitigated tyranny on part of the oppressors, and of slavery on part of the oppressed,—this is altogether an erroneous notion;—it was against unchecked oppression that man first learned to bind himself in unity with his kind; and, sheltered beneath the battlements, or, if need were, within the halls of his protecting chief, the poor bondsman first felt that he had a home to fight for, and a country to defend.

The condition, however, of copyholders in former days was not enviable; they were

styled villeins,* who, belonging principally to lords of manors, were either villeins *regardant*, —that is, annexed to the manor or land; or else they were *in gross*, or at large,—that is, annexed to the person of the lord, and transferable by deed from one owner to another. They could not leave the lord without his permission; but if they ran away or were purloined from him, might be claimed and recovered by action, like beasts or other chattels. They held indeed small portions of land by way of sustaining themselves and families; but it was at the mere will of the lord, who might dispossess them whenever he pleased (b).

(b)
2 Bl. 93.

Villeins, however, in process of time, gained considerable ground upon their lords, and, in particular, strengthened the tenure of their estates to that degree, that they came to have in them an interest in many places full as good, in others, better than their lords—for the good-nature and benevolence of many lords of manors having time out of mind permitted their villeins and their children to enjoy their possessions without interruption,

* The word "villein" is derived from the Latin word *villa*, because these people usually lived in villages, being employed in husbandry; or, from the Latin word *vilis*, because the duties which they performed in acknowledgment for their lands was of a humble nature, such as ploughing the lord's lands, &c. &c. so many days in the year.

in a regular course of descent, the common law, of which custom is the life, now gave them title to prescribe against their lords; and, on performance of the same services, to hold their lands, in spite of any determination of the lord's will; for though in general they are still said to hold their estates at the will of the lord, yet it is such a will as is agreeable to the customs of the manor; which customs are preserved and evidenced by the rolls of the several courts baron in which they are entered, or kept on foot by the constant immemorial usage of the several manors in which the lands lie. And as such tenants had nothing to show for their estates but these customs, and admissions in pursuance of them entered on the rolls, or the copies of such entries witnessed by the stewards, they now began to be called *tenants by copy of court roll*, and their tenure itself a *copyhold*.

Thus it appears that copyholders are, in truth, no other but villeins, who, by a long series of immemorial encroachments on the lord, have at last established a customary right to those estates which before were held absolutely at the lord's will (c).

(c)
2 Bl. 95.

Copyhold property is said to be parcel of the demesnes of the manor, and must be situate within the manor and have been immemorially demised or demisable by copy of court roll (d).

(d)
Stalman, 3.

The 2 Wm. IV. c. 45, s. 19, gives the right of voting for counties to persons seised, at law or in equity, of lands or tenements of copyhold or any other tenure, except freehold, for their own life or the life of another, or any larger estate of the clear yearly value of not less than ten pounds over and above all rents and charges; but (s. 25) no copyholder, customary tenant, or tenant in ancient demesne is allowed to vote for a county in respect of his estate or interest in any tenement of such value as would confer the right of voting for any city or borough.

See also 1 & 2
Vict. c. 110.

By the 3 & 4 Wm. IV. c. 104, copyholds are made assets for payment of debts, whether due on simple contract, or on specialty; priority being given to the latter.

Copyholds are of various kinds, and the customs and services incident to them are nearly as numerous as the manors of which they are held.

They are, first, of Ancient Demesne—second, Customary Freeholds—third, Copyhold of Inheritance—fourth, Copyhold for Life or Lives; and of these, firstly,

Of Ancient Demesne.

Ancient demesne consists of those lands or manors which, though now perhaps granted out to private subjects, were actually in the hands

of the crown in the time of Edward the Confessor or William the Conqueror, and so appear to have been by the great survey in the Exchequer, called Domesday-book. Tenants by this tenure, though it be absolutely copyhold, yet have an *interest* equivalent to a freehold. They differ from copyholders principally in their exemption from many services due from the latter; and equally differ from freeholders, in that their estates cannot be conveyed from man to man by the general common law conveyances of feoffment and the rest; but must pass by surrender to the lord or his steward, in the manner of common copyholds: yet, with this distinction, that in the surrender of these lands in ancient demesne, it is not used to say "*to hold at the will of the lord*" in their copies, but only, "*to hold according to the custom of the manor.*"

See 2 Bl. Com.
99, 101.

Secondly, Of Customary Freeholds.

Customary freeholds, known by the denomination of tenant right estates, are peculiar to the northern parts of England, in which border services against Scotland were anciently performed before the union of the two kingdoms. As in ancient demesne, in which this tenure is usually met with, a customary freeholder is

said to hold according to the custom of the manor, but not at the will of the lord.

(a)
See Stalman,
p. 6.

(b)
Gib. Ten. by
Watk. 198,
note 68.

(c)
Scriv. 678.

In some manors, customary freeholds pass by surrender and admittance; in others, by deed of grant, or bargain and sale or other mode of assurance and admittance, but fall within the same consideration as copyholds (a): the freehold even of such estates remains in the lord of whom they are held (b); and though customary freeholds are not held at the will of the lord, his assent is necessary to a change of tenancy, or at any rate is implied in the admittance, and is, I believe, an obligation invariably imposed upon the alienation of customary freeholds, although passing by deed of bargain and sale, or other act of assurance, not applicable to ordinary copyholds (c).

Thirdly, Copyhold of Inheritance.

(a)
Scriv. 55.

A copyholder has, in judgment of law, but an estate at will; yet, by custom, copyhold tenements may be descendible; and the descent of copyholds of inheritance is guided by the maxims and rules of the common law (a).

The fines payable by copyholders of inheritance are either absolutely certain, as one shilling, five shillings, or the like; or they are relatively certain, as one year or two years'

annual value of the property at the time of the grant—an arbitrary claim of unlimited fines being inconsistent with the right of the heir (b).

(b)
Per Macdonald
C.B.
See Scriv. 426.

Fourthly, Copyhold for Lives.

Copyholds are held for one, two, three, or more life or lives, according to the custom of their respective manors; as in copyholds of inheritance the fine is certain, so in those held for lives it is generally arbitrary. There are, in many manors, both copyholds of inheritance and for lives, and such a custom is good (a).

(a)
See Scriv. 122.

Copyhold estates of inheritance partaking of the nature of freeholds, and governed by the rules of the common law, may be considered as the genuine and original copyhold; and those granted for one or more life or lives, as a kind of (if the expression may be allowed) bastard sort, more resembling a lease for lives than a real copyhold. In some manors they are granted with a widow's estate, or freebench annexed; and, in others, with an executor year, after the death of the tenant or widow in possession. In some manors, too, there is a custom of granting estates in reversion to a life or lives, after a life or lives in possession; and such custom has been held good (b).

(b)
Fisher, 17.

Where copyhold estates are thus granted for lives (or to a person, determinable on other lives), the person to whom the grant is made is considered as the actual tenant of the estate, and must be admitted as tenant in possession, although he be not nominated as one of the lives in the court rolls of the manor: and it has been frequently determined that the lives nominated in such grant are to be considered as trustees merely, for the grantee (*Withers and Withers, Amb. Chanc. Rep.* 151); but it has been held, that where a father purchased lands in his son's name, his son being then eighteen years of age, and the father continued in possession till his death, that it should be considered as an advancement for the son, and not a trust for the father (*Taylor v. Taylor*, 1 *Atk.* 386), the presumption being that the father intends the purchase to be for the benefit of the child when he inserts his life in the copy. The safest plan, in all cases, is for stewards to add the following clause:—"The said A. B. (or A. B. and C. D.) being a trust life (or trust lives) only, and not preferred for his (or their) own use and benefit."

The case of *Lewis v. Lane*, reported 2 *Mylne and Keene*, 449, decided that the right of the equitable owner of a copyhold estate to dispose of his equitable interest by will cannot be controlled by the custom of a

manor; and that a custom, inconsistent with the doctrine of resulting trusts, as, that a person named by the purchaser of a copyhold estate, as the second life, according to the custom, shall take beneficially, is unreasonable: before this, in many instances, the legal estate had been supposed to carry the beneficial interest along with it.

In the case of a devise of a copyhold estate “to trustees and the survivor of them, and the executors and administrators of such survivor for ever, upon trust, out of the rents and profits, to pay certain yearly charges, and the residue to T. for life; and from and after his decease to pay the residue as aforesaid to T’s children, and so on for ever; and, for want of children lawfully begotten, to the testatrix’s daughters.”—It was held that T. took an equitable estate tail under this devise. T. received the rents during his life, but having an equitable estate only, was not admitted tenant of the copyhold, and died, leaving several sons. The custom proved, with respect to the descent of copyholds within the manor (Heathfield) was, that upon the death intestate of a tenant *seised* of an estate of inheritance, his younger son was his customary heir. It was held that the youngest son of T., and not the eldest, became entitled, on his father’s death, to call for a conveyance of the copyhold, as tenant

in tail under the devise (*Trash v. Wood*, 4 *Mylne and Craig Rep.* 324).

By 4 & 5 William and Mary, c. 24, the qualification to serve on a jury was raised to £10. *per annum* in England, and £6. in Wales, of freehold lands *or copyhold*; which is the first time that copyholders (as such) were admitted to serve upon juries in any of the king's courts; though they had before been admitted to serve in some of the sheriff's courts, by statutes 1 Ric. III. c. 4, and 9 Hen. 7. c. 13. 3 *Bl. Com.* 362.

CHAPTER III.

OF THE LORD.

WHOEVER is the lord *pro tempore* may hold a court, though he be only tenant-at-will; and even if a person who is lord by wrong, as by disseisin, abatement or intrusion, hold a court, his *ministerial acts*, as admission, &c. would be good, though his *grants* would not be obligatory on the lord by right, as one person cannot grant the property of another person away (a).

(a)
Vidal's Watk,

The lord of a manor can hold his own court in person,—that is, the customary court

and court baron. With regard to the court leet, this right is questioned; and it is said to be imperative on the lord to appoint a steward.

As, in the next chapter, I shall describe the duties of the steward, it may be as well to remark here, that (excepting as before stated) the lord possesses all the rights and privileges of the steward, with the addition that the lord may grant and admit out of court, and indeed out of the manor (b), which the steward cannot.* Such grant or admission must, however, to gain effect, be entered on the court rolls of the manor. It is questionable whether, if the lord presides at a court leet or court baron, he can recover the same fees for surrenders, admissions, &c. as would have been payable to the steward.

Although copyhold tenure cannot be created at the present day, the lord of a manor may, by custom, be warranted in granting out parcels of the waste, to hold by copy of court roll.—*Stalman*, p. 3. *Lord Northwick v. Stanway*, 3 B. and P. 346. *Rey v. Inhabitants of Bam. and Alde*. 189. *Hornchurch*, 2.

The lord of course appoints his steward: the appointment is generally during pleasure, but is always understood to be for life, except in cases of negligence or misconduct.

* See § lxxxvii. p. 189.

(b) 1 Scriv. 124.
Co. Lit. 61. 6,
s. 78. 4 Co.
266. Co. Cop.
44. Scroggs,
87.

CHAPTER IV.

OF THE STEWARD.

Appointment
of steward.

(a)
Bartlett v.
Downes, 3.
3 Barn. and
Cress. 616.

A STEWARD may be appointed either by deed or by will (a), when for the life of a grantor or of the grantee, or for a term of years certain, or by parol, if only during the lord's pleasure. A grant by parol is as effective as a grant by deed during the continuance of the stewardship (b).

(b)
Greenwood's
County Courts,
9th Edit. 355.

In the Queen's manors a steward must be appointed by patent—a corporation must ap-

(c)
Co. Cop. s. 45, point by deed (c).
Tr. 104.

The steward may take a surrender of a copyhold as well out of the manor as out of the court, whether he be appointed by deed or

(d)
1 Scriv. 139.

by parol (d).

A grant for a term of years of the stewardship of a court baron, would, it should seem, determine with the life of the grantee, if it should first happen (e).

(e)
Howard v.
Wood. Sir J.
Jones, 127.

In the case of a stewardship for life, the appointment would not be revoked by a subsequent sale, and of course therefore not by a devise of the manor (f).

(f)
1 Scriv. 144,

The steward of a court leet ought to be a

barrister (*g*); and, in a recent case, the court of B. R. adverted to the necessity of the stewards possessing legal knowledge, and considered the charges of an attorney for holding a court leet as charges made in his professional character, and therefore taxable (*h*): it is, however, but justice to solicitors to add, that probably a great majority of stewardships are held by them, though generally not those on the largest scale.

(*g*)
Per C. J. Holt.
Scroggs, 33.

(*h*)
Laxmore v.
Lethbridge,
4 B. & A. 898.
2 Scriv. 828,
note.
Scroggs, 33.

A stewardship granted for life or for years may be forfeited by *abuser*; as, if the steward burn the court rolls, or if he taketh a bribe to wink at any offence, or use partiality in any cause depending before him. By *non user*; as if the steward, by his patent being tied to keep courts at certain times of the year, without request to be made by the lord, faileth, and by his failure the lord receives any prejudice, this is a forfeiture; but if the lord be not damnified, then this *non user* is no forfeiture. By *refuser*; as, if the steward tied by his patent to keep court upon a demand or request to be made by the lord, if the lord demandeth or requesteth him to keep a court, and he faileth, this is a forfeiture, though the lord be thereby nothing damnified (*i*).

(*i*)
Co. Cop. s. 45,
Tr. 106, 7.

In addition to the legal duties of a steward, there are others of not less importance which often attach to his office, but which in no

Local duties of
steward.

work that I ever met with have been so much as hinted at, viz.: those which relate to the superintendence of the timber on an estate, as well as of the condition of the estates themselves, especially if the manor be held by an episcopal, chapter, or collegiate lord.

In these manors, generally, it has been usual to appoint a steward, under whom, in addition to court-holding, &c., is placed the whole control and management of the property; and it is, in truth, as much his duty to see that there is no waste of the timber, no dilapidation of the tenements, and that a proper course of husbandry is adopted in the lands, as it is to attend to his more strictly speaking legal duties.

Bailiff.

In many manors a bailiff is appointed, who resides on the estate, and furnishes the steward from time to time with information on local matters; but everybody must know that a resident in a country village, however spiritedly he may desire to perform his duty, yet, if in trade, or following any pursuit which places him in dependance on his surrounding neighbours, he can scarcely at times act up to the strict letter of his instructions. In all cases, then, where there is a resident bailiff, the steward should not the less make use of his own observation, and annually, or at least triennially, examine in

person the lands committed to his charge; and how much the more is this personal inspection requisite when, as is very often the case, there is no resident bailiff; and I could point out manors where, besides having no bailiff, there did not even exist a manorial survey, but the fines were left to be assessed, at guess-work, by a steward ignorant of the quality and extent of the lands.

Now, with regard to the agricultural condition State of land. of the manor, clearly a tenant has no right to depreciate the value of the land by an undue course of husbandry, or if he does, the peril should lie on his own head, without going into those extreme cases in which it might be necessary to proceed for forfeiture; for example—if by lack of draining, or other needful outlay, the land is not so productive as it ought to be, I certainly think that, allowing a fair sum for requisite improvements, the steward, in assessing his fine, should act as if such improvements had been already made, as there is no reason why a lord should be damnified by his tenant's negligence.*

Next, with respect to the state and condition As to buildings, &c. of the buildings on an estate, to see that these

* I have great pleasure in referring to an excellent little work, by C. W. Johnson, Esq., "On increasing the depth of Soils," published by Ridgway. The practical advantages of sub-soil ploughing are very ably and clearly pointed out. He also describes Sir Edward Stacey's *sub-turf plough*,

Timber for
repairs.

are kept in good repair, both for the lord's sake and the tenant's also, will equally require some attention on the steward's part. Tenants in almost all manors are entitled to rough timber for repairs, and, by reason of the negligence of lords and stewards of manors in this respect, this privilege has been in most cases exercised to a degree wholly inconsistent with the intention upon which such custom first took its existence, and the greater number of ecclesiastical and collegiate manors are, for this reason, denuded of all the timber which should be growing for the proper repair of the buildings on them. Cases also have occurred in which the steward of a manor, forgetting that his office, properly considered, is one of honour and of trust, and that it is as much his duty to protect the tenants from oppression, on the lord's part, as it is to support the lord's prerogative in all just and lawful measures, has lent himself to the grasping avarice of his superior, and has connived at felling, on his behalf, timber which never rightfully should have been cut for him; for, before the lord cuts timber for the purpose of sale, and not for the repair of his own buildings on the manor, it should be clearly ascer-

which loosens the soil beneath the grass without turning the flag over. Mr. Johnson observes on the utility of this discovery to graziers, as well as to tenants, who may be restrained, by the covenants of their leases, from breaking up pasture land.

tained that sufficient will be left to keep the tenant's tenements in proper order.*

On applications for rough timber for repairs, the steward should always insist upon having the estimate of a respectable carpenter, setting forth that such a quantity of timber is necessary, and the bailiff's certificate that he has seen the premises in question, and that the repairs for which timber is required are needful and just. The steward should then, properly, grant a licence to fell the timber required, and enter such licence on the rolls of the manor. Licence to fell timber.

Where the buildings are old, the steward should give every facility in his power to induce tenants to pull down and build anew, as old buildings require such constant patching, that in the course of a few years they consume more timber than would have sufficed completely to rebuild the whole premises, and new buildings require but little repair for a long series of years. Repairs of tenements.

With regard to pollards, I have found it very

Pollards.

* See *Ashmead v. Ranger*, 1 Lord Raym. 551, in which Lord Holt ruled that if the lord cut down trees, so as not to leave sufficient estovers, a *copyholder for life* might maintain trespass against him; but this judgment, though affirmed in the Exchequer Chambers and backed by the opinions of all the Judges of England, was, on appeal, reversed in the House of Lords. It is presumed that the grounds of this reversal were local, and that it would not be held to affect the great principle contended for by the Judges. See also 2 Scriv. 506.

advantageous to enter into terms with copyholders to cut down and root up all growing upon their several estates, and to apply the wood, loppings, &c. to their own use, planting in return a certain number of young trees for every pollard thus destroyed. Licences to this effect should invariably be entered on the manor rolls as preservative token of the lord's rights; for in several manors a custom has sprung up under which copyholders claim pollards as their own, and deny the lord's right to them in any way. I say this custom has sprung up, because it seems to me rank in the extreme; as it never could have been contemplated that tenants, who can so easily injure the timber, should have a premium allowed them for so doing.

A copyholder *for life* cannot claim custom to fell timber, but a copyholder *of inheritance* can establish such a custom in his favour (*see* 1 *Bulstrode* 14, 51, and 158. *Mardiner v. Elliott*, 2 *Durnford and East*, 746. 1 *Cruise Dig.* 298. *Greenwood's County Courts*, 349).

Per Chief Justice Cook—"The woods of a bishopric are called the dower of the church, and these are always carefully to be preserved."
—2 *Bulst.* 279.

"The clear opinion of the court was, that this prescription for a copyholder *for life* to cut down timber-trees, is a prescription against

reason, and so void in law, and so was the opinion of the whole court.”—1 *Bulst.* 158.

Where a lord has many manors, and several of them are leased out, and the lessee appoints his own steward, it is still customary to reserve the lord's right to timber, and therefore the lessee's steward should not allow any to be felled without first notifying the application to the steward of the lord for his consent; and in every licence for this purpose used by him, he should insert “by and with the consent of A. B. Esq., steward of the Right Hon. C. D., lord of the said manor, first duly had and obtained.” By this means only can the lord exercise that necessary surveillance over his lessee which he parted with when he allowed him to nominate his own steward. Lessee's
steward.

The duties of a steward are to receive the rents, hold the courts, and prepare the leases of the different manors and estates, and to exercise a general superintendence over all: cases, however, have occurred, in which, from various causes, these duties have fallen into different hands. It need scarcely be added that such occurrences are not generally to the lord's advantage. Duties of
steward.

It depends much upon the terms of the agreement, and the amount of salary given, but, generally speaking, a steward looks to the lord for reimbursement for all necessary travel-

ling and other expenses, unless upon special occasions, when the burthen of these will fall upon the tenant, or whomsoever the applicant may be.

The steward will have to pay the salaries of the different bailiffs, who are, or ought to be, removable at his pleasure; and he should make up his accounts with the lord, at least twice in every year, retaining at the first, or other account day, a small balance in hand to provide against any accidental expenses, and clearing up in full by the 1st of January in every year; and it may be convenient for the steward, in every January account, to insert the clear amount of income during each of the preceding years of his stewardship, and the lord will then be able to judge more clearly of the average amount of his income; for though the lord could easily ascertain this by reference to the accounts of bygone years, it is astonishing how appalling is the sight of figures to many of the most talented and learned of the day, if unaccustomed to them; and the steward's business therefore should be to lay a summary of his accounts before the lord, in the most concise and simple form, and nothing tends more to gain a man respect in his own eyes, and in those of the world generally, than the strictest punctuality in pecuniary engagements: there are two bad paymasters—one who pays

before his time, and one who pays after; in either case it breeds uncertainty, and very often causes much uneasiness and anxiety to a delicately-minded man, who may feel great cause for complaint, and yet, from constitutional habit, or a personal feeling of good-will, may be unwilling to complain.

It should be borne in mind that it is, or ought to be, as easy to pay what is due on the precise day as on any other day in the year, and therefore that neglect in this respect is inexcusable.*

CHAPTER V.

OF THE DEPUTY AND SUB-DEPUTY STEWARD.

It is universally allowed that the steward ^{Appointment of deputy-steward.} of a manor may appoint a deputy to hold a court, or to perform any ministerial act out of court.

* A steward should be very particular in keeping a correct index to the court rolls in his possession: *every name* should be inserted under its proper letter. It is not usual, but it would be much better, to have a duplicate of the court rolls, in case of accident by loss, fire, &c.; but a steward cannot be expected to do this, unless he is proportionably remunerated.

This may be done either by deed or parol, and either generally to hold courts when they may happen, or specially for any particular court.

Such deputy-steward has, for the time being, all the powers of a chief steward, and may act accordingly, unless any special agreement shall have been made to the contrary.

An under-steward cannot make voluntary grants, unless expressly authorized to do so by the chief steward (a).
1 Scriv. 146.

The steward is liable for the acts of his deputy, and any act of the latter which would amount to a forfeiture of the office is at the peril of the steward (b).
(b)
Young v. Fowler.
Cro. Car. 556.

A deputy-steward should hold the court in the name of his principal (c).
(c)
1 Scriv. 146.
Sub-deputy-steward.

A deputy-steward may appoint a sub-deputy to perform any specific ministerial act, either in or out of court; but such sub-deputy can act only *as the servant* of the deputy (d).
(d)
1 Scriv. 147.
Lord Dacre's Case.

The fee to a deputy-steward for holding a court is from two to four guineas per diem, according to the extent of the manor and amount of business done, and he is entitled to all such travelling and other charges as would have been allowed to the steward had he been present.

CHAPTER VI.

OF THE BAILIFF AND HAYWARD.

THE appointment of the bailiff rests with the ^{Appointment of bailiff.} steward, and by parol is quite sufficient: in some manors, however, the lord appoints; this, however, is not usual, as the bailiff's authority coming directly from the steward, he should be as much as possible under his control—to appoint or remove at pleasure.

Sometimes the lessee of a manor is, *virtute officii*, bailiff of it at a nominal salary; in these cases, it is usual to employ a sub-bailiff. The bailiff may, by custom, be chosen by the jury of the court,—by custom, also, the steward may nominate the persons to be summoned as jurors, otherwise this privilege pertains to the office of bailiff (a).

(a)
Rex. v. Joliffe
2 B. & C. 54

Should a copyholder be found to neglect suit to the manor court, it would be advisable that the bailiff should serve a summons upon him personally, in case of any proceeding at law being instituted against him for a forfeiture: for no forfeiture of the copyhold can occur by reason of non-performance of suit, unless

(b)
2 Watk. 28. the copyholder be *personally* warned: a general notice will not be sufficient (b).

(c)
Belfield v. Adams,
3 Bulst. 80, 1. He may, however, be *amerced* for non-attendance, and especially if the court be held by custom on a certain day in each year (c).

(d)
1 Watk. 30. The bailiff of a manor cannot, as such, make a grant by copy; for such a power does not appertain to his office, which was instituted for other purposes (d); but he may take a surrender, should such a custom exist (e).

(e)
Id. 68. Bailiff's duties. The bailiff's duties are to procure the earliest information of the decease of any of the copyholders of the manor, or of any lives which may be upon any of the copies, and of such death immediately to forward information to the steward.

He should also forward early notice of any determination of widowhood (on account of the party's death), marriage, or unchaste conduct, as the case and the custom of the manor may be.

He should be able to inform the steward whether all the lands under his surveillance are farmed in a proper and correct manner, or otherwise.

Buildings. He should also pay particular attention to the state and condition of all the buildings on the manor, and notify to the steward if any are out of repair.

---ws. He should particularly observe whether, in

the hedge-rows and other places, proper attention is paid to the young wood, and notify immediately to the steward if any undue waste or any act of pollarding a young tree should fall under his inspection, or if any tenant should fell timber without licence from the steward first duly had and obtained.*

In all cases of windfalls — trees being the Windfalls. property of the lord immediately upon their being severed from the soil — the bailiff should instantly notify that circumstance to the occupier of the land, and then proceed to sell the same for the lord's benefit, duly accounting for the proceeds to the steward.

No timber should be cut under a licence Timber. from the steward, unless marked by the bailiff of the manor; as, unless they are standing so close as to injure one another, none but ripe trees ought to be cut; and the bailiff should discountenance, by every means in his power, the too prevalent habit of lopping trees, especially elm-trees, to an unreasonable height, which not only chills the wood and contracts

* When hedge-rows have been allowed to run up without trimming for any length of time, the bailiff should desire the tenants not to cut without giving previous notice, upon receiving which he should attend and mark all promising-looking young timber plants with a ring of red paint *all round*, taking the number of those which he has so marked, for inspection afterwards. An immense quantity of timber is lost from the rapacity of tenants or carelessness of labourers on these occasions.

its growth, but renders the timber, when cut, hard, crooked, and knotty.

Customs.

The customs established in different manors are various in the extreme. It is the bailiff's duty to make himself well acquainted with those in his jurisdiction, and with none more so than with those relating to heriots.

Heriots.

In some manors, it is customary to render to the lord the best animal of which the tenant dies possessed; and in others, the second-best beast; and again, in others, the only beast, if but one; or if the tenant has no beast, then to pay a fixed sum in lieu of heriot; and in others, to render the best beast or good, *or* to pay a sum certain at the election of the lord; and again, in other manors, the lord is entitled to the best beast, if the tenant die possessed of a beast;—otherwise the best dead good, or a sum certain (f).

(f)
1 Scriv. 438,
and Cases
there referred
to.

But whether the heriot be the best beast or the second-best, it must be that which was so *at the time of the tenant's death or alienation*; for if the property in the beast was not *at that time* in the tenant, the lord can have no title to it; but if the property in such beast *was* in the tenant at that time, the title of the lord is complete. And therefore, if the tenant die on the 1st of January, and the lord do not seize till the 1st of December, the lord must not take that beast which may be the best on the

latter day, but that which was the best on the day on which the tenant died or aliened (*g*); Watk.^(g) 146. and the same may be said respecting the best or other good. I mention this as a hint to bailiffs in the prosecution of their duty. Let them remember, directly a heriot is due, of whatever kind, to write and inform the steward; because, if there should be a sale of the tenant's live and dead stock before claim put in by the lord, the latter will have no remedy afterwards. I may add, while on this subject, that heriot custom may be seized by the bailiff, or other officer of the manor, for the lord's use, wherever it may happen to be found, whether upon or in any place out of the manor; and if it be eloigned, the lord may have trover or detinue for it; for the law adjudgeth possession in him without seizure: but he cannot break open a stable, or even enter on the land of a stranger, unless the beast or other chattel be stolen (*h*).^(h)

1 Scriv. 462.

The bailiff should likewise pay great attention to the condition of the roads, bridges, footpaths, watercourses, &c. throughout the manor, and specially observe that no encroachments of the least description are made upon the lord's waste. Roads, &c.

The bailiff usually receives a salary paid to him by the steward, on the lord's account, every Michaelmas. His fee for marking timber, Bailiff's fees.

under the steward's licence, is generally one shilling a tree, and it is his business to deliver the copies to the different parties entitled to the same after the court-day, for which his remuneration is one shilling each.

At special courts, besides the fees to which by the custom of the manor he is entitled, he has an extra fee, varying from one guinea downwards.

At general courts, he receives fees according to the custom of the manor.

Lop, top, and bark.

In some manors, he is entitled to the lop, top, and bark of the felled timber, and of the windfalls; in other manors, this is a perquisite of the steward; in others, it belongs to the lord; and in others, it is usual for the tenants to take it, in lieu of an extra allowance of timber; or it is given to the labourers, instead of a money payment for cutting, clearing, fencing, and cartage of the timber felled.

In some manors, the bailiff is allowed a piece of land, which goes by the name of the bailiff's acre, and is usually coppice-wood.

I need scarcely observe, that the bailiff should be acquainted with the art of measuring solids, so as to be able to take the dimensions of the timber when cut: it would also be often of advantage if he were moderately acquainted with surveying.

Quit-rents.

In some instances, the bailiff receives the

quit-rents of the manor; he should, in such a case, be provided with a book containing a description of each copy, the lives upon each, and the amount of quit-rents payable upon each respectively, which he should bring with him, and alter, as occasion might require, at every general and special court.

All the proclamations made by the bailiff at Proclamations. court should be in a loud and clear voice; and, in conclusion, he should remember that his situation is one of trust and confidence, the duties of which he is bound, by the sanctity of an oath, honestly to fulfil.

The *hayward's* duties are, principally, to look Hayward. after the boundary-fences, &c. and to impound all strayed cattle; and, in manors where there is no bailiff, the hayward performs all the duties of a bailiff.

CHAPTER VII.

OF THE CONSTABLE AND TITHINGMAN.

CONSTABLES receive their appointment from Appointment of constable. the jury of the court leet, and are sworn in by the steward at the general court.

The steward may impose a fine upon one

who is elected constable by the jury, if he be present in court and refuses to be sworn; but, if he be not present, the steward cannot fine him; yet he may be amerced, though absent; which must be presented and affeered at the next court: and after the court is over, he must be sworn before a justice of the peace, on the steward's certificate that he is chosen (a), and he may be indicted for refusing to accept the office (b).

(a)
Scroggs, 6.

(b)
2 Scriv. 863.
Constable's
duties.

The constable's duties are seldom properly performed, and the very name has fallen into such disrepute, that few people of respectability are willing to undertake them, and the substitutes whom they provide are usually utterly incompetent. All this should be amended; and people appointed to this office should be informed that the office of constable is most ancient and honourable, and one which no man need be ashamed of filling. It is the negligence with which the duties of constable have been performed that has led, in many counties, to the extensive establishment of rural police,—had there been more of public spirit, there had been less of public burdens.

Tenants in ancient demense are liable to serve as constables, and so are captains in the army, and, it is presumed, other inferior officers.

The parties exempt are, generally speaking, ^{Parties exempt.} women, physicians, practising barristers, clergymen, dissenting teachers, surgeons, attornies, apothecaries, servants to members of parliament, officers of excise and customs, gentlemen of quality (where there are others sufficient), publicans, militia-men, yeomanry, cavalry, and foreigners.—(*Burn's Justice.*)

The duties of a constable are to preserve the ^{Duties of constable.} public peace; and, therefore, if *he shall see* any man assault another, or threaten to do so, it is ^{Assaults.} his business to arrest him at once and carry him before a justice, or to gaol, or to any other safe custody for the present; but a constable cannot arrest any man without a warrant, unless he should actually see the offence committed; but, in a case of *felony*, he may arrest upon reasonable ground of suspicion.

Constables may execute warrants out of their ^{Warrants.} precinct, if in the jurisdiction of the magistrate granting or backing the same.

The warrant must mention the christian and surname of the party to be attached, unless he should be unknown, and then he should be described as well as circumstances will admit of.

Constables executing a warrant of distress, if required, must show the same to the person whose goods and chattels are distrained, and allow a copy of it to be taken.

Indemnity. As constables are indemnified in all proper and legal acts, so are they liable to fine or imprisonment if they neglect or exceed their duty, or take bribes.

Expenses. A constable is to be paid his expenses in making a distress, for taking, keeping and selling such distress, out of the money arising by such sale; and the charges of conveying an offender to gaol are paid by the offender, if able, or else out of the county rate, except in Middlesex, where they are paid by the overseers of the parish in which the person was apprehended.

He is also to be paid his expenses for carrying to gaol and maintaining any idle, disorderly person, rogue or vagabond, out of the money found upon him or arising from the sale of any property in his possession.

A constable may appoint a *deputy* to execute his office, when, by reason of sickness, absence, or otherwise, he cannot do it himself. If the deputy be not duly sworn, the principal is liable—otherwise he is not. 1 *T. R.* 682. *Wood*, b. 2, c. 7; and note to *Chitty's* edition of *Blackstone's Com.* 1 vol. 355.

Rural police. Constables will do well to hold themselves ready, at all times, to assist the rural police, if required; negligence in this respect is not likely to be lightly visited. The following is a

list of the fees usually allowed to the constables
of most parishes in England:—

	£	s.	d.	Fees.
For the oath of office	0	1	0	
For service of any warrant at the instance of the parish, (if in the parish)	0	5	0	
For every mile beyond the limits of parish	0	0	6	
If beyond the distance of five miles, and not exceeding a day's journey.	0	5	0	
For every journey of one day or more, per day, including all ex- penses	0	10	0	
For attending the bench of justices at their petty sessions	0	1	6	
The like at their general or quarter sessions, (including expenses)... .	0	10	0	
Attending the coroner with notice of a death	0	4	6	
Summoning a jury, and attending inquisition	0	6	8	
Expenses of the jury	0	10	0	
Billeting of soldiers	0	0	0	
Pressing of waggons for soldier's baggage	0	0	0	
Attending on a search night, or at a fair in the parish	0	2	0	
Attending to see that shops and pub- lic-houses are closed during divine service on Sundays	0	0	0	
Attending on the day of election of of a member of parliament, (un- less paid by the candidate)	0	5	0	

	£	s.	d.
For conveying a felon or other prisoner to gaol, when the parish is liable to pay the expenses (including expenses)	0	10	0
Making out a list of jurors to return to the sessions	1	0	0
Verifying the same	0	1	0
Making out a list of persons to serve in the militia, or any other military force	1	0	0
Verifying the same	0	1	0
Summoning any person balloted in the militia, &c.	0	1	0
Service of any poor's-rate summons	0	4	0
Attending as a peace officer within the parish on any public occasion, or at an execution of any sentence on any criminal.	0	2	6

Tithingman.

In some places there is both a constable and tithingman, where the tithingman is, as it were, a deputy to execute the office in the constable's absence; but there are some things which a constable has power to do, that a tithingman cannot intermeddle with; for the constable may do whatever the tithingman may do; but not so the tithingman, as he has not equal power with the constable; but, in places where there is no constable, the office and authority of tithingman seems to be all one, under a different name (1 *Bla. Com.* 357).

Qualification.

No person is qualified to be a constable

unless he resides in the parish or place for which he is to serve; and his occupancy is determined by his sleeping there; for merely having a shop or other place of business in the parish, where he may be occasionally employed at night, is not sufficient to render him liable (*Burn's Justice*).

CHAPTER VIII.

OF THE AFFEEROR.

THE word *affeer* has many derivations, but the most probable one seems to be that derived from the French word *affier*, which is the same as *affirmare* or *confirmare*, to affirm or confirm, and signifies, in the common law, such as are appointed upon oath to set the fines on those who have committed faults that are punishable arbitrarily, and have no express penalty provided for them. Derivation of word.

In the custom of Normandy, the word *affeerer* is expressed by the Latin *taxare* or *estimare*, to set the value of a thing.

By Magna Charta, 9 Hen. III. c. 14, it is ordained that persons are to be amerced after the manner of the fault; and the amerciaments

(a)
Fisher, 61, see note.
Fine for offence.

shall be assessed by the oath of honest and lawful men of the vicinage (a).

A fine for an offence is a punishment for that offence, by the lord or his steward in the court leet, as a court of record, at their discretion, for such offences as are committed in court, and come within their knowledge and observation; but an amerciamment is a punishment of the jurors for offences committed within the manor, but not in the court. Such offences therefore must be first presented before they can be amerced; and after they are amerced, before they can be recovered they must be affected (b).

(b)
Fisher, 62.

CHAPTER IX.

OF THE HOMAGE.

Court baron. THE court baron is the peculiar court of the lord of the manor, and is incident to every manor; so that every lord may keep a court baron, though every lord may not keep a court leet.

Homage. Of this court, the freeholders or suitors themselves, who are termed the *homage*, and not the steward as in the court leet, are the judges;

and the steward sits as registrar only; he however acts as judge in matters of law (a). (a)
Fisher, 69.

The homage need not, as the jury in a court leet, consist of twelve; it will be sufficient if there be two only; but it is absolutely necessary that they be freeholders of the manor (b). (b)
Co. Cop. 59.

Every copyholder is bound to do suit of court,—that is to say, to attend the lord's court, and be of the homage, &c.; and if a copyholder resident within the manor neither appears, nor sends a reasonable excuse, after a general notice in writing, he may be amerced, and, if he should neglect a personal summons, his estate may be forfeited.

The duties of a homager are to inquire into the rights of the lord of the manor, especially into any that may have accrued to him since the last court, and directing his attention particularly to any advantage the lord could gain by reason of any reliefs payable by the custom of the manor, on death, or otherwise; or by reason of any escheats occasioned by the death of any of the freehold tenants, without leaving heirs inheritable to their lands; or in consequence of any forfeiture, deodands, waifs, estrays, treasure trove, or other manorial franchise. Duties of
homage.

He is to inquire whether any boundary-stones or landmarks have been removed, any encroachments made upon the wastes of the Boundaries.

lord, or upon the commonable rights of any tenants, and whether there has been any breach of the lord's pound.

Amerciaments. The homage are to set a reasonable amer-
ciament upon any persons who, owing suit
and service to the court, have neglected to
attend and perform; and they are to inquire
into all rights and offences, both of commis-
sion and omission, as between lord and tenant
or tenant and tenant, and to make their pre-
sentments and orders accordingly (c).

(c)
2 Scriv.
app. 423.

CHAPTER X.

OF THE JURY.

Court leet. THE court leet is accounted the Queen's
court, and all persons residing within its juris-
diction, except peers, prelates, and tenants in
ancient demesne, owe suit and service to it;
and it is the duty of the jury to present and
amerce such as make default.

Duties of jury. They are to present the names of such offi-
cers as, by the custom of the manor, are gene-
rally chosen and sworn at the leet, and to
present any neglect which any public officer
of the leet may have committed.

If any offence was presented at the last Offences. court, and the offending party has not obeyed the terms which were then enjoined, the jury are to certify the same to the court, in order that the amerciament set for it may be levied.

They are to inquire of and present all ob- Bridges, &c. structions of public bridges, ways and paths, the stoppage or diversion of all public water-courses, the removal or destruction of landmarks, and any pound-breaches, the neglect of cleansing pools, or of enclosing stone, marl or other the like pits, or of the separation of bridges or causeways, the laying of dung-soil or other offensive thing on any public highway; and also every other act which may tend to the injury or nuisance of any of the Queen's liege subjects.

If there are not sufficient residents to make a jury, the lord or steward may cause strangers to be of the inquest.

CHAPTER XL

ON FINES.

WE have already seen* that the fines payable by copyholders in ancient demesne, customary freeholders, and copyholders of inheritance are generally what are called fines certain.

These are either absolutely fixed, in which case they are usually merely nominal, as one shilling, five shillings, and the like, or they are relatively certain, as so many years' value of the copyhold; and it may be laid down as a general rule that, whenever these fines are certain, the copyholder has the right of renewal upon tendering the amount due on the event which may have occurred, and the lord cannot demand a larger sum, or decline to admit him. The only question to be decided, *is*, what is the annual value; and from this, when ascertained, the quit or reserved rent is to be deducted, but not the amount of land-tax, or any incumbrance on the land which is not in its nature absolutely permanent.

These fines are different in different manors,

* Ante, p. 9.

according to their respective customs, varying, in most cases, from one year and a half to two years' annual value, on death of tenant in possession, and from one year's annual value to one and a half, upon alienation or sale of the lands.

On the admission of joint tenants, it appears Joint tenants. that, for the first life, two years' improved value may be taken; for the second life, half the sum taken for the first; for the third life, half the sum taken for the second; and for the fourth, half that which is taken for the third, and so on; and that a fine so assessed is reasonable ^(a). But it is not to be hence Wilson v. Hoare, 2 B. and Adol. 350. inferred, that this mode of computing the fine would be adopted, however numerous the joint ^(b) tenants might be Stalman, 72. ^(b).

In the case of a devise to one for life, with remainder over, great care should be taken in assessing the fine to understand what is the custom of the manor in such an event, as the general rule, that the admission of tenant for life is the admission of him in remainder, may be found to operate very hardly upon a lord if a suitable fine is not taken, in the first instance, on the admission of such tenant for life; and it has been said by Lord Eldon, in *Lord Kensington v. Mansell*, ^(c) that when 13 Ves. 246. ^(c) tenant for life comes on behalf of himself and all in remainder, if the lord does not take the

fine, he cannot afterwards insist on it from those in remainder, but he may apportion it; it appears, however, that the person in remainder is not compellable to pay his proportion of the fine until his estate comes into possession (d). The better plan seems to be to adopt the mode of assessment mentioned with respect to joint tenants, and to apportion the fine between those in remainder in such proportions; but such proportions of the whole fine assessed upon the tenant for life, and the life or lives in remainder, do not become payable, *stricti juris*, till the admittance of such remainderman or reversioner,—that is, the proportion assessed upon the tenant for life is paid upon his admission, and the proportions assessed upon those in remainder or reversion are paid when they are respectively admitted. In some manors, however, it is the custom for a remainderman to pay a full fine on admission, and where such is the case, it is competent to the lord, on the death of tenant for life, and after proclamations made, and presentment by the homage, to seize *quousque* the remainderman comes in (e), and upon a seizure made *quousque*, the lord is not compellable to account for the rents of the estate received by him during his possession (f).

(d)
1 Scriv. 406.

(e)
Stalman, 121.
Doe v. Jenney,
5 East, 522.

(f)
1 Scriv. 354.

As to fines payable by copyholders for lives, in order to establish a tenant right of renewal

of copyholds, it must be shown that the fine is certain, or, at least, relatively certain, as a year or half a year's value, at the time of the grant; and it is not sufficient to prove a right to renew on payment of a *reasonable* fine, as any uncertainty negatives the allegation of compulsion; nor can the presumption of the duration of the estate from the grant itself be rebutted, except by evidence of constant renewals for fines certain (*g*), and the only evidence is in the court rolls of the manor. If therefore the court rolls show that for a long series of years the fines have been relatively certain, the copyholder can establish a right of renewal upon those terms—otherwise not, ^(g) 1 Scriv. 422.

The principle that a copyholder for lives cannot set up a custom to renew, except on payment of a fine certain, was further established by the case of *Lord Abergavenny v. Thomas* (*h*), in which case, adverting to the interposition of the law to prevent the lord from taking more than two year's value, Lord Hardwicke observed, that this was applicable only to copyholds of inheritance, and that copyholds grantable for lives only, if the fine was not certain, were like leases of freehold lands for lives, and renewable only upon the best terms the party could make (*i*); and in the case of *Wharton v. King* (*k*), Mr. Baron Thomson relied on the above case; and on the ^(h) E. 12. Geo. 2. ⁽ⁱ⁾ 1 Scriv. 424. ^(k) 3 Anst. 659.

(1)
1 Scriv. 425,
&c.

Duke of Grafton v. Horton, as establishing the principle that a copyholder for lives could not set up a custom to renew unless on payment of a fine certain (1); and a rule obtained for a new trial was discharged, Chief Baron *Macdonald* observing, "that the certainty of the fine was an essential term in a custom for copyholders for lives to renew; and that the court were all of opinion that that direction was perfectly right, and that the amount of the fine could not, in the case of copyholds for lives, be rendered definite and certain by reference to the principle upon which the courts have acted with regard to copyholds of inheritance, where an arbitrary claim of unlimited fines would be inconsistent with the right of the heir."

Having premised thus much, I will observe that where the fines are arbitrary, which is almost always the case in copyholds for lives, they are either assessed according to the age or ages of the life or lives in possession and the age or ages of the lives proposed to be added according to the government tables, or the lord or steward names such as in his discretion appear fair and reasonable. When copyholds are held for two lives, and one dies, it is common to take two years' annual value on adding, and one year and a quarter on changing a life. Where the copyholds are for

three lives, and one dies, an ordinary fine is from one year and a half to one year and three-quarter's improved annual value; and for two lives, from six to eight years' value; and for changing a life, one year's value. Where four lives or more are on the copy at the same time, the fines are proportionably less. Copyholders, however, would find great difficulty in establishing such customs, as whatever customs are said to exist, the fine is, in most cases, made a matter of bargain, and stands usually recorded on the rolls of the manor in any shape but that of a fine certain.

Parties desirous to add a life must, if required, be prepared with certificates of the existence of the remaining life or lives; and those desiring to exchange a life, should bring with them the certificate of a respectable medical practitioner, that the life required to be exchanged is suffering from no other malady than old age; as, should there be any reason to apprehend immediate dissolution, the steward would not be justified in assenting to the request.

Where the tables are used for the purpose of assessing fines, if the property consists principally of land, the 5 per cent. table is generally used; but where there are many buildings, the 6 per cent table: this rule is equally adapted to leaseholds for lives; thus — for

putting in a new life on a copyhold estate
held originally for three lives:—

Age of Life put in.	Ages of Lives in possession.	Number of Years' purchase, 5 per cent.	Number of Years' purchase, 6 per cent.
10 ..	25—25	$1\frac{1}{2}$	1
	25—35	$1\frac{3}{4}$	$1\frac{1}{4}$
	25—45	2	$1\frac{1}{2}$
	25—55	$2\frac{1}{2}$	$1\frac{3}{4}$
	25—65	$2\frac{3}{4}$	$2\frac{1}{4}$
	25—75	3	$2\frac{1}{2}$
10 ..	35—35	$2\frac{1}{4}$	$1\frac{1}{2}$
	35—45	$2\frac{1}{2}$	$1\frac{3}{4}$
	35—55	$2\frac{3}{4}$	$2\frac{1}{4}$
	35—65	$3\frac{1}{4}$	$2\frac{3}{4}$
	35—75	$3\frac{3}{4}$	3
10 ..	45—45	3	$2\frac{1}{4}$
	45—55	$3\frac{1}{2}$	$2\frac{3}{4}$
	45—65	$4\frac{1}{4}$	$3\frac{1}{4}$
	45—75	$4\frac{1}{2}$	$3\frac{1}{2}$
10 ..	55—55	$4\frac{1}{2}$	$3\frac{1}{4}$
	55—65	5	4
	55—75	6	$4\frac{3}{4}$
10 ..	65—65	$6\frac{1}{4}$	5
	65—75	$7\frac{1}{4}$	6
15 ..	25—25	$1\frac{3}{4}$	1
	25—35	$1\frac{1}{2}$	$1\frac{1}{4}$
	25—45	$1\frac{3}{4}$	$1\frac{1}{2}$
	25—55	$2\frac{1}{4}$	$1\frac{3}{4}$
	25—65	$2\frac{1}{2}$	2
	25—75	$2\frac{3}{4}$	$2\frac{1}{4}$
15 ..	35—35	$1\frac{3}{4}$	$1\frac{1}{2}$
	35—45	$2\frac{1}{4}$	$1\frac{3}{4}$
	35—55	$2\frac{1}{2}$	2
	35—65	3	$2\frac{1}{2}$
	35—75	$3\frac{1}{2}$	$2\frac{3}{4}$

Age of Life put in.	Ages of Lives in possession.	Number of Years' purchase, 5 per cent.	Number of Years' purchase, 6 per cent.
15 ..	45—45	2 $\frac{3}{4}$	2 $\frac{1}{2}$
	45—55	3 $\frac{1}{4}$	2 $\frac{1}{2}$
	45—65	3 $\frac{3}{4}$	3 $\frac{1}{2}$
	45—75	4 $\frac{1}{2}$	3 $\frac{1}{2}$
15 ..	55—55	4	3
	55—65	4 $\frac{3}{4}$	3 $\frac{3}{4}$
	55—75	5 $\frac{1}{2}$	4 $\frac{1}{2}$
15 ..	65—65	6	4 $\frac{3}{4}$
	65—75	6 $\frac{3}{4}$	5 $\frac{1}{2}$
20 ..	25—25	1 $\frac{1}{2}$	1
	25—35	1 $\frac{1}{2}$	1
	25—45	1 $\frac{3}{4}$	1 $\frac{1}{2}$
	25—55	2	1 $\frac{1}{2}$
	25—65	2 $\frac{1}{2}$	2
	25—75	2 $\frac{1}{2}$	2
20 ..	35—35	1 $\frac{3}{4}$	1 $\frac{1}{2}$
	35—45	2	1 $\frac{1}{2}$
	35—55	2 $\frac{1}{2}$	1 $\frac{3}{4}$
	35—65	2 $\frac{3}{4}$	2 $\frac{1}{2}$
	35—75	3 $\frac{1}{2}$	2 $\frac{1}{2}$
20 ..	45—45	2 $\frac{1}{2}$	2
	45—55	3	2 $\frac{1}{2}$
	45—65	3 $\frac{1}{2}$	3
	45—75	4	3 $\frac{1}{2}$
20 ..	55—55	3 $\frac{1}{2}$	2 $\frac{3}{4}$
	55—65	4 $\frac{1}{2}$	3 $\frac{1}{2}$
	55—75	5 $\frac{1}{2}$	4 $\frac{1}{2}$
20 ..	65—65	5 $\frac{1}{2}$	4 $\frac{1}{2}$
	*65—75	6 $\frac{1}{2}$	5 $\frac{1}{2}$

**Example.*—Suppose the annual value of the land to be £100, and the two lives at present

existing to be aged 65 and 75 respectively, the fine a tenant would pay for putting in an additional life, aged 20, so as to enable him to make 6 per cent. out of his money, would be $5\frac{1}{4}$ years' purchase, or £525.

Inwood's tables contain the number of years' purchase a tenant would pay to make 3 per cent., 4 per cent., 5 per cent., or 6 per cent. of his money, and are a necessary *vade mecum* for all persons interested in renewals of any description of property.

CHAPTER XII.

ON WILLS.

ON the death of a copyholder, before the customary heir is admitted, the question is, whether the deceased has left a will devising his copyhold property; and, if such be the case, it must be produced at the court and presented to the homage, and such part of it as relates to the devisor's copyhold estates should be read publicly by the steward or clerk, and be afterwards entered on the manor rolls; if the devisee do not come forward to be admitted, the lord may seize *quousque*.

Where a testator, at the making of his will,

has the legal seisin of a copyhold, and devises it, and the devisee is not admitted, nothing passes by the will of the devisee; but when a testator has only an equitable interest in a copyhold, and devises it, the equitable interest will pass to the devisee; and the devisee, though never admitted, may devise such equitable interest (*Phillips v. Phillips*, 1 *Mylne and Keene*, 649). The right also of the equitable owner of a copyhold estate to dispose of his equitable interest by will cannot be controlled by the custom of a manor (*Lewis v. Lane*, 2 *Mylne and Keene*, 449).*

On the 3rd July 1837, 1 Vict. c. 26, an Act was passed "For the Amendment of the Laws with respect to Wills," a prominent feature in which is, that no wills, whether of real or personal property, will be held valid unless attested by *two* or more credible witnesses.

The word "will" shall extend to a testa- By Sect. 1.
ment, and to a codicil, and to an appointment by will or by writing in the nature of a will in exercise of a power, and also to a disposition by will and testament, or devise of the custody and tuition of any child, by virtue of 12 Car. 2, c. 24, or 14 and 15 Car. 2, and to any other testamentary disposition; and the words "real estate" shall extend to manors, Real Estate.
advowsons, messuages, lands, tithes, rents, and

* See ante, pp. 10, 11.

Personal
Estate.

hereditaments, whether freehold, customary freehold, tenant right, customary or copyhold, or of any other tenure, and whether corporeal, incorporeal, or personal, and to any undivided share thereof, and to any estate, right, or interest (other than a chattel interest) therein; and the words "personal estate" shall extend to leasehold estates and other chattels real, and also to monies, shares of government and other funds, securities for money (not being real estates), debts, choses in action, rights, credits, goods, and all other property whatsoever which by law devolves upon the executor or administrator, and to any share or interest therein. The clauses especially relating to copyholds are as follow:—

All property
may be dis-
posed of by
will,

III. And be it further enacted, that it shall be lawful for every person to devise, bequeath, or dispose of, by his will, executed in manner herein-after required, all real estate and all personal estate which he shall be entitled to, either at law or in equity, at the time of his death, and which, if not so devised, bequeathed, or disposed of, would devolve upon the heir at law, or customary heir of him, or, if he became entitled by descent, of his ancestor, or upon his executor or administrator; and that the power hereby given shall extend to all real estate of the nature of customary freehold or

comprising
customary
freeholds and
copyholds

tenant right, or customary or copyhold, notwithstanding that the testator may not have surrendered the same to the use of his will, or notwithstanding that, being entitled as heir, devisee, or otherwise to be admitted thereto, he shall not have been admitted thereto, or notwithstanding that the same, in consequence of the want of a custom to devise or surrender, to the use of a will or otherwise, could not at law have been disposed of by will if this Act had not been made, or notwithstanding that the same, in consequence of there being a custom that a will or a surrender to the use of a will should continue in force for a limited time only, or any other special custom, could not have been disposed of by will according to the power contained in this Act, if this Act had not been made; and also to estates *pur autre vie*, whether there shall or shall not be any special occupant thereof, and whether the same shall be freehold, customary freehold, tenant right, customary or copyhold, or of any other tenure, and whether the same shall be corporeal or an incorporeal hereditament; and also to all contingent, executory, or other future interests in any real or personal estate, whether the testator may or may not be ascertained as the person or one of the persons in whom the same respectively may become vested, and whether he may be entitled thereto under the instru-

without surrender and before admittance, and also such of them as cannot now be devised;

estates pur autre vie;

contingent interests;

rights of
entry ; and
property ac-
quired after
execution of
the will.

ment by which the same respectively were created or under any disposition thereof by deed or will ; and also to all rights of entry for conditions broken, and other rights of entry ; and also to such of the same estates, interests, and rights respectively, and other real and personal estate, as the testator may be entitled to at the time of his death, notwithstanding that he may become entitled to the same subsequently to the execution of his will.

As to the fees
and fines pay-
able by devi-
sees of custo-
mary and copy-
hold estates.

IV. Provided always, and be it further enacted, that where any real estate of the nature of customary freehold or tenant right, or customary or copyhold, might, by the custom of the manor of which the same is holden, have been surrendered to the use of a will, and the testator shall not have surrendered the same to the use of his will, no person entitled or claiming to be entitled thereto by virtue of such will shall be entitled to be admitted, except upon payment of all such stamp duties, fees, and sums of money as would have been lawfully due and payable in respect of the surrendering of such real estate to the use of the will, or in respect of presenting, registering, or enrolling such surrender, if the same real estate had been surrendered to the use of the will of such testator : provided also, that where the testator was entitled to have been admitted to such real estate, and might, if he had been

admitted thereto, have surrendered the same to the use of his will, and shall not have been admitted thereto, no person entitled or claiming to be entitled to such real estate in consequence of such will shall be entitled to be admitted to the same real estate by virtue thereof, except on payment of all such stamp duties, fees, fine, and sums of money as would have been lawfully due and payable in respect of the admittance of such testator to such real estate, and also of all such stamp duties, fees, and sums of money as would have been lawfully due and payable in respect of surrendering such real estate to the use of the will, or of presenting, registering, or enrolling such surrender, had the testator been duly admitted to such real estate, and afterwards surrendered the same to the use of his will; all which stamp duties, fees, fine, or sums of money due as aforesaid shall be paid in addition to the stamp duties, fees, fine, or sums of money due or payable on the admittance of such person so entitled or claiming to be entitled to the same real estate as aforesaid.

V. And be it further enacted, that when any real estate of the nature of customary freehold or tenant right, or customary or copyhold, shall be disposed of by will, the lord of the manor or reputed manor, of which such real estate is holden, or his steward, or the

Wills or extract of wills of customary freeholds and copyholds to be entered on the court rolls;

and the lord
to be entitled
to the same
fine, &c. when
such estates
are not now
devisable as he
would have
been from the
heir in case of
descent.

deputy of such steward, shall cause the will by which such disposition shall be made, or so much thereof as shall contain the disposition of such real estate, to be entered on the court rolls of such manor or reputed manor; and when any trusts are declared by the will of such real estate, it shall not be necessary to enter the declaration of such trusts, but it shall be sufficient to state in the entry on the court rolls that such real estate is subject to the trusts declared by such will; and when any such real estate could not have been disposed of by will if this Act had not been made, the same fine, heriot, dues, duties and services shall be paid and rendered by the devisee as would have been due from the customary heir in case of the descent of the same real estate, and the lord shall, as against the devisee of such estate, have the same remedy for recovering and enforcing such fine, heriot, dues, duties, and services as he is now entitled to for recovering and enforcing the same from or against the customary heir in case of a descent.

A general
devise of the
testator's lands
shall include
copyhold and

XXVI. And be it further enacted, that a devise of the land of the testator, or of the land of the testator in any place or in the occupation of any person mentioned in his will, or otherwise described in a general manner, and other general devise which would

describe a customary, copyhold, or leasehold estate if the testator had no freehold estate which could be described by it, shall be construed to include the customary, copyhold and leasehold estates of the testator, or his customary, copyhold and leasehold estates, or any of them, to which such description shall extend; as the case may be, as well as freehold estates, unless a contrary intention shall appear by the will.

XXXIV. And be it further enacted, that this Act shall not extend to any will made before the first day of January one thousand eight hundred and thirty-eight, and that every will re-executed or republished, or revived by any codicil, shall for the purposes of this Act be deemed to have been made at the time at which the same shall be so re-executed, republished, or revived; and that this Act shall not extend to any estate *pur autre vie* of any person who shall die before the first day of January one thousand eight hundred and thirty eight.

leasehold as well as freehold lands.

Act not to extend to wills made before 1838, nor to estates *pur autre vie* of persons who die before 1838.

CHAPTER XIII.

COURT FEES.

THE fees paid at different manor courts are various in the extreme, but of late years they

have more approximated to the same standard; and the following list, which has been prepared after much consultation with several stewards of manors, will, I think, give a fair average of what these expenses are:—

	<i>s.</i>	<i>d.</i>
Proclamation	6	8
Presentment of death	6	8
Searching court rolls	6	8

Proportionably more according to trouble, and if more than one estate.

Perusing, presenting, and enrolling will, 13*s.* 4*d.*

Proportionably more if the will is long and special, and more than one estate.

	<i>£.</i>	<i>s.</i>	<i>d.</i>
Instructions for power of attorney .	0	6	8
Drawing, and copy, per folio	0	1	0
If copy made for perusal, per folio .	0	0	4
Engrossing on paper, at per folio . .	0	0	6
Affidavit of execution	0	5	0
Perusing power of attorney	0	6	8

(More if long).

Enrolling power of attorney and deeds, per folio	0	0	6
Taking surrender of one estate and drawing minute thereof, to be entered on the rolls	1	0	6
Ac etiam	0	10	0
Taking surrender to bar entail, and drawing minute thereof, to be entered on the rolls	1	0	6
Ac etiam	0	10	0
Taking surrender to use of will, and minute	0	13	4

	£.	s.	d.
For separate examinations	0	6	8
If many estates, the fee should be increased.			
Admission to one estate, and drawing minute thereof, for entry on the rolls	1	0	6
Ac etiam, for all other estates in the same copy	0	10	0
If copy made for perusal, per folio	0	0	4
Engrossing and collating copy, per folio	0	1	0
Memorandum of consideration	0	6	8

Discharging Conditional Surrender.

Warrant to enter satisfaction and search.	1	0	0
Presenting and enrolling	0	13	4
Minute of satisfaction	0	6	8
Respiting fealty	0	2	6
Taking surrender out of court	1	0	6
Presenting same	0	6	8

Any extra trouble to be charged for besides the above fees.

In cases of special courts, the fee to the steward is matter of arrangement, generally from 2*l.* 2*s.* to 5*l.* 5*s.* and all expenses.

In some places, it is usual to charge 1*l.* 1*s.* extra on every copy, taking the chance of there being many or few.

Licences to fell timber, &c. and entry of

same on court rolls, are usually charged about 1*l.* each, or less, if the quantity required be but small.

When the consent of the lessor's steward is required, the steward of the lessee will generally charge 13*s.* 4*d.*, and to lessor's steward for consent, 6*s.* 8*d.*, or, as before, proportionably less.

On surrenders and admissions, the steward's clerk is usually considered entitled to a fee of from 2*s.* 6*d.* to 5*s.*

OATHS USUALLY ADMINISTERED AT COURTS
LEET AND COURTS BARON.

Bailiff's Oath.

“You, A.B., shall well and truly serve our sovereign lady the Queen, and the lord (or lady) of this leet, in the office of bailiff for the year ensuing, or until you shall be thereof discharged, according to due course of law; you shall duly execute all process to be directed unto you from the steward of this court, and diligently and faithfully account for all rents, profits, and revenues, and in all things demean yourself as a faithful bailiff ought to do—*So help you God.*”

Constable's Oath.

“You, A.B., shall well and truly serve our sovereign lady the Queen, and the lord (or lady) of this leet, in the office of constable for the parish (tithing or hamlet) of _____, for the term of one whole year next ensuing, or until you thereof be discharged, according to due course of law; you shall execute all lawful process sent to you, and, by hue and cry or otherwise, use your utmost endeavours to apprehend and secure all felons, rioters, disorderly and idle persons, and others guilty of a violation of the laws of this realm, and shall in all things faithfully and diligently demean yourself in the aforesaid office—*So help you God.*”

Affeeror's Oath.

“You, A.B., shall well and truly affeer and assess the several amerciaments now to you remembered, and therein spare no one through fear, favour, or affection; nor enhance any one through prejudice, hatred or malice, but shall impartially act herein—*So help you God.*”

Hayward's Oath.

“You, A. B., shall well and truly execute the office of hayward for this manor, until you

be thereof discharged, according to due course of law ; you shall from time to time present all pound-breaches, estrays, waifs, and all other matters and things falling within the duties of your office, justly, and without favour or affection—*So help you God.*”

Aleconner's Oath.

“ You, A. B., shall well and truly serve our sovereign lady the Queen, and the lord (or lady) of this leet, in the office of aleconner or assizer, for the parish (tithing or hamlet) of _____, for the term of one whole year next ensuing, or until you be thereof discharged, according to due course of law ; you shall present all offences cognizable by this court which may come to your knowledge, without fear, favour, or affection, and in all things faithfully and impartially discharge the duties of the aforesaid office—*So help you God.*”

Tithingman's Oath.

“ You, A. B., shall well and truly serve our sovereign lady the Queen, and the lord (or lady) of this leet, in the office of tithingman, for the parish (tithing or hamlet) of _____, for the term of one whole year next ensuing, or until you be thereof discharged, according to due

course of law ; you shall execute all lawful process sent to you, and, by hue and cry or otherwise, use your utmost endeavours to apprehend and secure all felons, riotous, disorderly and idle persons, and others guilty of a violation of the laws of this realm, and shall in all things faithfully and diligently demean yourself in the aforesaid office—*So help you God.*”

Constable or Tithingman sworn to present.

“You, A. B., shall inquire, and true presentment make, of all the several offences committed, relating to your office, since the last court—*So help you God.*”

Oath administered to Foreman of Homage, when it is a Court Leet and Court Baron.

“You, A. B., as foreman of this homage, with the rest of your fellows, shall inquire, and true presentment make, of all such things as shall be to you in charge, and of all such other matters as shall come to your knowledge, presentable at this court ; you shall present nothing out of hatred or malice, nor conceal anything through fear favour, or affection, but in all things shall true and just presentment make, according to the best of your understanding—*So help you God.*”

Oath administered to Foreman of Homage in a Court Baron.

“You, A. B., as foreman of this homage, shall inquire, and true presentment make, of such things as shall be given to you in charge, and of all such other matters as shall come to your knowledge, presentable at this court; and this you shall do, without fear, favour, affection, hatred or malice, to the best of your understanding—*So help you God.*”

The remainder of the Homage are, in either case, to be sworn as follows :—

“The like oath which A. B., your foreman, hath taken on his part, you, and each of you, shall well and truly observe and keep on your respective parts—*So help you God.*”

Oath administered to Foreman of Jury.

“You, A. B., as foreman of this jury, with the rest of your fellows, shall inquire, and true presentment make, of all such things as shall be given to you in charge, and of all such other matters as shall come to your knowledge, presentable at this court; the Queen’s counsel, your own and your fellows’, you shall well and truly keep; you shall present nothing out of

hatred or malice, nor conceal anything through fear, favour, or affection, but in all things you shall true and just presentment make, according to the best of your understanding— *So help you God.*”

*The remainder of the Jury are then to be Sworn,
two or three at a time, thus:—*

“The like oath which A. B., your foreman, hath taken on his part, you, and each of you, shall well and truly observe and keep on your respective parts— *So help you God.*”

Oath of Fealty.

“You, A. B., swear to become a true and faithful tenant to the Right Reverend the Lord Bishop of _____, lord of this manor, for the estate to which you have made your acknowledgment of tenure at this court; you shall from time to time bear, pay, and perform all such rents, duties, services and customs, in respect of the same estate, as are due and of right accustomed. You shall from time to time be ordered and justified in all things, at the lord’s court, to be holden in and for this manor, as other the tenants of this manor are, shall, or ought to be, and you shall in all things demean yourself as a faithful tenant ought to do— *So help you God.*”

FORMS.

Steward's Precept to the Bailiff to call a Court Baron.

"The Manor of

"In the County of

"To. C. D., Bailiff of the said Manor.

"These are to require you to summon and give notice to the several and respective customary tenants of the said manor of , personally to appear at a customary court baron, to be holden for A. B., lord of the same manor, on the day of , at o'clock in the forenoon, at the usual and accustomed place, being the , then and there to do their respective suit and service, and pay their respective rents due to the lord of the manor of aforesaid.

"And these are also further to require you to give notice of the said court to all other persons in anywise concerned in the business thereof, in order that they may appear at the

time and place above-mentioned, and for your so doing this shall be your sufficient warrant.

“Given under my hand and seal, this day
of , in the year of our Lord

“E. F.

“*Steward.*”

*Bailiff's Notice in consequence of the
above Precept.*

“The Manor of

“In the County of

“Notice is hereby given, to all persons whom it may concern, that a general customary court baron of A. B., &c., will be holden for the said manor, on , the day of next, at o'clock in the forenoon, at the usual and accustomed place, being, &c. when and where all customary tenants of the said manor are required to attend and perform their suit and service, and pay their respective rents due to the lord of the said manor.

“Dated this day of , in
the year of our Lord

“C. D.

“*Bailiff.*”

*Steward's Precept to Bailiff to call a Court Leet
and Court Baron.*

"The Manor of

"In the County of

"To C. D., Bailiff of the said Manor, greeting.

"These are to require you to give notice within the said manor, that the court leet or law-day, and view of frank pledge, of the Right Honourable , Earl of , lord of the said manor, will be holden at the house of , at , within the said manor, on , the day of next, at the hour of in the forenoon, and to warn all the resiants and freehold tenants of the said manor personally to be and appear at the place and time aforesaid, to do and perform their suit and service, and pay their quit-rents, fines and other duties as of right they ought to perform, and render at such courts respectively; and also to warn all constables, tithingmen, and other public officers of the aforesaid leet and manor, then and there to attend, and make and return their several presentments. And you are hereby required to summon twelve or more good and lawful men of the said manor, to be and appear at the aforesaid place and time, to inquire as well for our sovereign lady the Queen, as lady of the said leet, of all such

matters as to the said court do appertain;
and be you there personally with the names
of the persons you shall have so summoned,
bringing with you also this precept.

“ Given under my hand and seal, this
day of , in the year of our Lord

“ E. F.

“ *Steward.*”

*Bailiff's Notice in consequence of the above
Precept.*

“ The Manor of

“ In the County of

“ Notice is hereby given, that a court leet or
law-day, and view of frank pledge, and a court
baron of the Right Honourable , Earl
of , will be holden for the said manor
on , the day of
next, at o'clock in the forenoon, at the
usual and accustomed place, being the house
of , at , in the said manor,
when and where all the resiants and freehold
tenants of the said manor, and all public officers
of the said leet and manor, and others con-
cerned in the business of such courts respec-
tively, are required to attend.

“ Dated this day of , in the
year of our Lord

“ C. D.

“ *Bailiff.*”

Bailiff's Proclamation on opening Court Baron.

"O yes. All manner of persons that owe suit and service to the customary court baron of _____, here this day to be holden for the manor of _____, or that have been summoned to appear at this court, draw near and give your attendance, every tenant answering to his name as he shall be called."

Bailiff's Proclamation on opening a Court Leet and Court Baron.

"O yes, O yes, O yes. All manner of persons who owe suit and service to the court leet and law-day, and the court-baron of A. B., now to be holden, or who have been summoned to appear at this time and place, draw near and give your attendance, every man answering to his name, when called, and thereby saving his amercement; God save the Queen, and the lord (or lady) of this leet."

Warrant to a Bailiff to assign Timber for Repairs.

"The Manor of _____

"In the County of _____

"To C. D., Bailiff of the said Manor.

"Take notice, that E. F., a copyhold tenant of the said manor, is allowed three oak (ash,

elm, &c.) trees, for and towards the repairing of his tenement, lying within and holden of the said manor, now in the occupation of , but for no other purpose, and the same trees to be had and taken by your assignment from and out of , &c.

“ Given under my hand, this day
of , in the year of our Lord

“ A. B.

“ *Steward.*”

Licence to fell Timber.

“ The Manor of

“ In the County of

“ Be it remembered, that on the day
of , &c. A. B., lord of the said manor,
by C.D., the steward thereof, did (out of court)
give and grant to E. F., one of the customary
tenants of the said manor, full licence to fell,
within calendar months from the
day above mentioned, oak trees
(ash, elm, &c.) standing and growing, &c.
within the said manor, and already marked
(or to be marked) for that purpose by the
bailiff (or woodward) of the said A. B., the
same* to be used and employed by the

* Or—“the same to sell and dispose of or convert to his own use, at his free will and pleasure, without rendering any account for the same. And for this licence the said E.F. hath paid by way of fine the sum of £

said E. F. in the repairs and improvements
of, &c. and for no other purpose.

“ C.D.

“ *Steward.*”

Licence to fell Pollards upon condition to plant.

“ The Manor of

“ In the County of

“ Be it remembered, that on the day
of , in the year of our Lord ,
A.B., lord of the said manor, by C.D., steward
thereof, did give and grant to E. F., one of
the customary tenants of the said manor, full
licence to fell, within twelve calendar months
from the day above mentioned, all and every
pollard-tree or trees standing or growing in
the copyhold tenements of the said E. F.,
within the said manor, and the same to sell
and dispose of, or convert to his own use, at
his free will and pleasure, without rendering
any account for the same, UPON CONDITION,
that for every pollard-tree so felled, the
said E. F. shall plant upon his said copyhold
premises (or elsewhere as the case may be)
 young oak (ash, elm, or larch) trees,
within the said twelve calendar months, sub-
ject nevertheless to the inspection and ap-

proval of the steward (or bailiff) of the said manor.

“ C. D.

“ *Steward.*”

Order for a Constable, who did not appear at the Court, to be sworn into his Office by a Justice of the Peace.

“ The Manor of

“ In the County of

“ To A. B.

“ Forasmuch as at the court leet holden this present day, in and for the said manor, you are elected constable for the year ensuing: these are therefore to will and require you, upon receipt hereof, to take upon you the said office; and forthwith to repair to one of Her Majesty's Justices of the Peace of the said county, before him to take your oath for the due execution of the said office: hereof fail not at your peril.

“ Given under my hand and seal, the day
of

“ C. D.

“ *Steward.*” (L. S.)

STAMPS.

FROM 55 GEO. III. CAP. 184.

11 *July* 1815.

APPOINTMENT in execution of a power of land or other property, when made by any writing not being a deed or will . . 1*l.* 15*s.*

And a further duty for every 15 common law folios, after the first, of 1*l.* 5*s.*

APPRAISEMENT.

Appraisement or valuation of any estate, &c., or of the annual value thereof, or of any dilapidations, or repairs wanted, or of the materials and labour used or to be used in any buildings, or of any artificer's work whatsoever,

		£.	s.	d.
Not exceeding	50 <i>l.</i>	0	2	6
Exceeding 50 <i>l.</i> and not exceeding 100 <i>l.</i>		0	5	0
100	200 <i>l.</i>	0	10	0
200	500 <i>l.</i>	0	15	0
500 and upwards		1	0	0

Exemptions from the above Duties.

Valuations made for the purpose of ascertaining the legacy duty payable in respect thereof.

Appraisements made to ascertain the legacy duty require no stamp, but if made for the return or increase of probate duty, must be stamped.

ATTESTED COPY of any deed, conveyance, will, &c. (for every entire quantity of 720 words) 1s.

AWARD 1*l*. 15*s*.

And if the same shall contain 2160 words, or 30 common law folios, then for every entire quantity of 1080 words, after the first 1080 25*s*.

BARGAIN and SALE (to be enrolled) of any estate of freehold land, &c. in England, upon any other occasion than the mortgage or sale 5*l*.

Progressive duty 1*l*. 5*s*.

BARGAIN and SALE (or Lease) for a year, where the purchase or consideration money shall not amount to 20*l*. 10*s*.

Where the same shall amount to

20 <i>l</i> . and not to 50 <i>l</i>	£0	15	0
50 — 150	1	0	0
150 or upwards	1	15	0

Bargain and Sale (or Lease) per year, upon any other occasion 1*l*. 15*s*.

CONVEYANCES.

Where the purchase or consideration money shall not amount to			
		£20 . .	£0 10
Amounting to £20	and not	50 . .	1 0
50	—	150 . .	1 10
150	—	300 . .	2 0
300	—	500 . .	3 0
500	—	750 . .	6 0
750	—	1,000 . .	9 0
1,000	—	2,000 . .	12 0
2,000	—	3,000 . .	25 0
3,000	—	4,000 . .	35 0
4,000	—	5,000 . .	45 0
5,000	—	6,000 . .	55 0
6,000	—	7,000 . .	65 0
7,000	—	8,000 . .	75 0
8,000	—	9,000 . .	85 0
9,000	—	10,000 . .	95 0
10,000	—	12,500 . .	110 0
12,500	—	15,000 . .	130 0
15,000	—	20,000 . .	170 0
20,000	—	30,000 . .	240 0
30,000	—	40,000 . .	350 0
40,000	—	50,000 . .	450 0
50,000	—	60,000 . .	550 0
60,000	—	80,000 . .	650 0
80,000	—	100,000 . .	800 0
100,000 or upwards		. . . .	1000 0

Progressive duty 14

Where any freehold lands, &c. in England shall be conveyed by a deed of feoffment, with or without any letter of attorney to deliver or receive seisin, or by deed of bargain and sale enrolled, such deed of feoffment or bargain and sale, unless accompanied with a release, shall be charged with a further duty, as follows: If the consideration or purchase money shall be under 20*l*. 10*s*.

If 20*l*. and not 50*l*. 15*s*.

50 — 150 1*l*.

150 or upwards 1*l*. 15*s*.

But if there is both a feoffment and bargain and sale enrolled, the further duty does not attach to either.

Note.—The purchase or consideration money is to be truly expressed and set forth in words at length, in or upon every such principal or only deed or instrument of conveyance.

On a surrender of copyholds, if of the yearly value of 20*s*. 1*l*.

Copy of admission 1*l*.

If under the value of 20*s*. 5*s*.

COPY, Extract, &c. of any memorial, or of the register of any memorial registered pursuant to Act of Parliament 5*s*.

And for each piece of vellum, parchment, paper, &c. 5*s*.

Copy or extract of any deed, or of any other instrument (not falling under the description of law proceedings) taken from the rolls or records of His Majesty's courts at Westminster 2s.

And for every piece of vellum, paper, &c. upon which any such copy shall be written, after the first, a progressive duty of. . . 2s.

Attested copy of any agreement, contract, deed, or other instrument, for every entire quantity of 720 words 1s.

Attested copy or extract of any deed, &c. given out from any public register, or from the books or records of any court in *Scotland*, not otherwise charged under the head of law proceedings 2s. 6d.

For any less quantity of words contained therein over the first 600 words, or over and above any second, third, or other full quantity of 600 words, a further duty of . . . 2s. 6d.

Exemptions.

Attested Copies.

Certified copies of proceedings and interlocutors, required or authorized in cases of appeal to the House of Lords.

Copies or extracts of protests upon bills or promissory notes, for any sum under forty shillings sterling.

Extract of commissions of persons as delegates, &c. to the general assembly or presbytery church court in *Scotland*.

EXCHANGE: any deed whereby lands, &c. shall be covenanted to be surrendered for other lands, &c. if no sum of money or only a sum under 300*l.* shall be paid for the equality of exchange 35*s.*

And for every 1080 words over and above the first 1080 25*s.*

If a sum of money amounting to 300*l.* or upwards shall be paid for equality of exchange, the same duty as on a conveyance for a like sum. In the latter instance, for every entire quantity of 1080 words over the first 1080, a progressive duty of 20*s.* and for the counter-part or duplicate of any such deed of exchange, the same duty.

FEOFFMENT not upon the mortgage or conveyance of any lands, &c. 35*s.*

And for every 1080 words over the first 1080 25*s.*

LEASE of any land, &c. granted in consideration of a sum of money by way of premium, without any yearly rent, or with any yearly rent under 20*l.*, the same duty as for a conveyance on the sale of lands for a sum of money of the same amount.

Lease at a yearly rent without any premium, where the yearly rent is under 20 <i>l</i>					£1 0
Amounting to 20 <i>l</i> . and under 100 . . .					1 10
100	—	200	. .		2 0
200	—	400	. .		3 0
400	—	600	. .		4 0
600	—	800	. .		5 0
800	—	1,000	. .		6 0
1,000 or upwards					10 0

Leases, where a sum is paid by way of premium, and a yearly rent amounting to 20*l*. and upwards, pay the *ad volorem* duty both on rent and premium. The counterpart of a lease charged with a duty not exceeding 1*l*. pays the same duty as the lease. Counterpart of any other lease, 1*l*. 10*s*. Where the lease shall contain 2160 words or upwards (or 30 common law folios), then for every entire quantity of 1080 words over the first 1080, a progressive duty of 1*l*.

Leases of waste or uncultivated lands to any poor or labouring persons, for any time not exceeding 3 lives or 99 years, where the fine does not exceed 5*s*. or the reserved rent one guinea yearly, are exempted from stamp duty ; likewise the duplicate of such leases.

LETTER of ATTORNEY, 1*l*. 10*s*. And for every entire quantity of 1080 words over the first 1080, a further duty of 1*l*.

MORTGAGE, conditional surrender by way of mortgage, further charge, wadset, heritable bond, &c.

Not exceeding	50 <i>l</i> .	£1	0
Exceeding 50 <i>l</i> . and not exceeding 100 .		1	10
100 — — 200 .		2	0
200 — — 300 .		3	0
300 — — 500 .		4	0
500 — — 1,000 .		5	0
1,000 — — 2,000 .		6	0
2,000 — — 3,000 .		7	0
3,000 — — 4,000 .		8	0
4,000 — — 5,000 .		9	0
5,000 — — 10,000 .		12	0
10,000 — — 15,000 .		15	0
15,000 — — 20,000 .		20	0
20,000 and upwards		25	0

And for every entire quantity of 1080 words, after the first 1080 words 1*l*.

If the total amount of the money secured to, or be ultimately recoverable thereupon, shall be uncertain and without any limit . . . 25*l*.

Progressive duty 1*l* 5*s*.

Mortgage bond, bearing even date with the mortgage 1*l*.

By a late Act of Parliament, *transfers of mortgages* require only the deed duty of 35*s*.; and for every entire quantity of 1080 words after the first, 25*s*. If a further sum is ad-

vanced, and a transfer of the original likewise, the duty on mortgages in general attaches to such fresh sum, in this instance, for every entire quantity of 1080 words after the first 1080 20s.

SETTLEMENTS

Of any certain sums or funds.

If under 1,000l. . .		£1 15
If 1,000l. and under 2,000 . .		2 0
2,000 — 3,000 . .		3 0
3,000 — 4,000 . .		4 0
4,000 — 5,000 . .		5 0
5,000 — 7,000 . .		7 0
7,000 — 9,000 . .		9 0
9,000 — 12,000 . .		12 0
12,000 — 15,000 . .		15 0
15,000 — 20,000 . .		20 0
20,000 and upwards		25 0

Progressive duty, 25s.

Duplicates pay the same amount.

Exemptions.

Bonds, &c. charged with *ad valorem* duties.

Appointments under powers in settlements.

Deeds or wills in favour of persons specially named.

Deeds merely declaring trusts, pursuant to previous settlement, &c.

Wills and testamentary papers.

COPYHOLD ENFRANCHISEMENT.

ENFRANCHISEMENT is "the changing of the tenure from base to free;" and is effected by "the lord's conveying to the tenant the freehold of the particular and specific premises which were held by copy, or by releasing to the tenant his seignorial rights" (a).

(a)
1 Watk. 362.

When the lord has only a limited interest in the manor, he is, of course, precluded from carrying a treaty of enfranchisement into complete effect; and as the acceptance of a conveyance of a portion only of the freehold interest operates as a merger of the whole of the copyhold,—the two estates being incompatible,—it behoves every copyholder, who is desirous of enfranchising his estate, to satisfy himself that the lord is seised of the manor for an estate in fee-simple, or, at all events, that a power has been reserved to him to grant the freehold and inheritance of the copyhold tenement, or that he is acting under some special authority created by Act of Parliament (b).

(b)
1 Scriv. 654;
& see 42 Geo. 3,
c. 116; 48 Geo.
3, c. 73; and
58 Geo. 3, c. 45.

If a copyhold estate be enfranchised by a tenant in tail, the issue in tail will be barred; and where copyholder in tail takes a conveyance of the freehold in fee, the copyhold is merged (c).

(c)
Parker v. Turner, 1 Vern.

Cha. Ca. 393
and 458.

(d)

Challoner v.
Marshall, 2

Ves. jun. 524.

(e)

1 Watk. 362.

By the enfranchisement of tenant in tail in possession, remaindermen are barred (d).

Enfranchisement is effected according to the rules laid down by Watkyns; (e)

First; "By the conveyance of the *lord* to the tenant;" for if the tenant convey or release his interest to the lord, it will not be an enfranchisement, but an extinguishment of the copyhold.

Secondly; "The conveyance must be *to the tenant*," as the act of the lord alone shall not prejudice the copyholder's estate.

Thirdly; It is "the conveyance of the *freehold*;" and this should be effected by a feoffment, bargain and sale, or the like; though the release by the lord of the seignorial rights, will equally effect an enfranchisement.

Fourthly; The conveyance must be of the freehold "*of the particular and specific premises which were held by copy.*"

The principal hardships attached to copyhold tenure are, generally, confessed to be heriot-custom and fines arbitrary or uncertain; as, for copyholders of inheritance with a fine certain, or relatively so, to use the words of Blackstone, "We may look upon them as little inferior to absolute freeholders in point of

interest, and, in other respects, particularly in the clearness and security of their titles, to be frequently in a better situation" (f). 2 Bl. 150. ^(f)

For several years past, founded, I believe, on the first Report of the Real Property Commissioners, Bills for the Enfranchisement of Copyholds, or for Commutation of Manorial Rights, have been introduced into both Houses of Parliament.

In the year 1838, the subject was referred to a select Committee, who were appointed to consider of the Enfranchisement of Copyholds, and to report their opinion thereon; and who were empowered to report the Minutes of Evidence taken before them. On the 13th of August in the same year, they agreed to the following Report:—

“ Your committee find that, under the existing law, the power to enfranchise copyholds very generally exists. It is usually either incident to the estate of the lord, or it is given to him by the deed or will under which his lands are settled. The disposition, however, to enfranchise is by no means equally extensive with the power: this arises, in many cases, from ignorance of the just right of the parties, in others, from a desire to preserve undisturbed manorial privileges and authorities; but, in the great majority of cases, from the want of a tribunal in which both parties have confidence to adjust their respective rights.

“ Your committee regret that any impediment

should exist in the way of this enfranchisement. From a very early period, complaints have been made against copyholds, and regret has frequently been expressed that they were not included in the great alteration which was made in the law of tenures in the reign of Charles the Second. Very shortly after this change took place, Roger North, in his *Life of Lord Keeper Guildford*, vol. 1, p. 36, says: 'Small tenements and pieces of land that have been men's inheritances for divers generations, to say nothing of the fines, are devoured by fees; so that if it were only to relieve the poorest of the landowners of the nation from such extortions and oppressions, without more, there is reason enough to abolish the tenure. It was somewhat unequal when the parliament took away the royal tenures *in capite*, that the lesser tenures of the gentry were left exposed to as grievous abuses as the former.' Your committee are satisfied that this tenure is ill-adapted to the wants of the present day, and is a blot on the juridical system of the country. They consider that the peculiarities and incidents of copyholds (which have their origin in the villeinage of the feudal system) are at once highly inconvenient to the owners of the land, and prejudicial to the general interests of the state. By the nature of the copyholder's tenure, independent of custom, some of the most valuable productions of the soil are distributed between the lord and the copyholder, so as to be of little value to either. Thus the lord cannot cut the timber growing on the land without the consent of the tenant, nor can the tenant cut it without the licence of the lord: the lord cannot open and work a mine under the soil without the consent of the tenant, nor can

the tenant open and work it without the licence of the lord. It is not surprising that, under these circumstances, the mine remains unworked, and the timber has disappeared from the face of the land. Where also the fine payable to the lord is arbitrary, it operates as a tax upon the capital of the tenant, and is a direct check to all building and all agricultural and other improvements. In this cursory mention of the disadvantages of copyholds, and as more peculiarly affecting this tenure, heriots must not be forgotten, as perhaps the most grievous and unjust. But your committee are most desirous of pointing out, that so long as copyholds shall exist, two distinct species of tenure will prevail, mixed up very generally with each other, and causing much needless expense and difficulty, both in the investigation of title, and in the enjoyment and alienation of real property.

“Under these circumstances, your committee have come to the conclusion, that the abolition of this tenure would not only be a great public benefit, but should be made, if possible, a national object. They are also of opinion, that no plan which merely leaves the option to the parties to enfranchise, will meet the exigency of the case, and they are, therefore, desirous of seeing a plan of enfranchisement introduced, which shall have a due regard to the rights as well of the lord as the copyholder, but which shall be eventually compulsory on both. A plan having this object was submitted to your committee, which will be found in the appendix; but your committee entertained a strong opinion adverse to the system of arbitration suggested in the paper alluded to. It has, however, appeared to them, that the tithe com-

mission, which has been recently established by Act of Parliament, might be rendered available, as affording a tribunal well qualified to deal with this important subject. The tithe commissioners have for some time pursued an inquiry of an analogous nature, and have at their disposal a machinery adapted for adjusting the rights of all parties interested in copyholds. Your committee are, therefore, happy to state, that the tithe commissioners having been applied to, have intimated an opinion that they could undertake this duty advantageously: and your committee beg to refer to their evidence on this subject, which they deem highly satisfactory.

“In conclusion, therefore, your committee look forward with confidence to the speedy and entire abolition of this tenure, as a means of greatly simplifying and improving the law relating to real property. They earnestly desire that measures may be speedily taken to accomplish this object, with reference as well to lands of customary as of copyhold tenure; it appears to them, that the best mode of effecting it would be, by giving every facility to enfranchisement for a short term of years, and that after that period the enfranchisement should proceed on the compulsory principle; and they recommend that a Bill having this object should be introduced in the next session of Parliament.”

It would be invidious to use harsh terms in speaking of the above Report, prepared as it was by respectable and independent country gentlemen who gratuitously gave up their time and attention to a (to them, probably,) dull and uninteresting subject.

It is necessary, however, to make some observations upon it before I proceed farther. It mentions, firstly, "that the power to enfranchise copyholds very generally exists:" this is true enough; and if, among the multiplicity of reports that are ordered every week to be prepared, one were made out showing the number of acres that have been voluntarily enfranchised during the last twenty or thirty years, it would, I think, show that though the disposition to enfranchise may not be co-extensive with the power, still that enfranchisement has proceeded steadily, and, probably, year by year with an increasing impetus, especially in the neighbourhood of towns where land has been required for building.

I wish here to observe, that neither in this report, nor in any of the compulsory enfranchisement bills which succeeded it, was any distinction attempted to be drawn between copyholds of ancient demesne, customary freeholds, copyholds of inheritance, or copyholds for lives — all have been confined under the one term "copyhold:" this is not only singular, but unjust in the extreme; for, by this report, and the bills that followed it, an expensive compulsory enfranchisement was provided, not only for copyholds for lives, with arbitrary fines, where alone such a proceeding, if justifiable, in any case would have been beneficial,

but also for copyholds of inheritance, with, perhaps, only a nominal fine of 2s. 6d. on death or alienation, and 1s. for a heriot — a tenure for a landowner on a humble scale incomparably better than freehold, on account of the cheapness and facility with which its title can be investigated and a conveyance effected.

We now come to the great authority against copyholds—Roger North,—and very possible what he says was true; but Roger North should have looked back to former days before his time, and seen what the condition of copyholders was then. In fact, both Roger North and the opponents of copyhold tenure, at the present day, seem to have fallen into the same mistake—in lavishing so many of their sympathies upon the copyholder, that they have none left for the lord, quite forgetting that in him is the freehold — the fee-simple — of the land, and that these copyholds, upon which he is now considered such an incubus, were granted originally by his ancestors or the ancestors of those from whom he or his ancestors purchased the property, merely for a short term of years, for a life or lives, or even solely during his own pleasure. In my opinion the extinguishment* of copyholds should have been advocated *pari passu* with their enfranchisement.

* See ante, p. 84.

With regard to the observations respecting timber, mines, &c., I think that if men had been appointed to the management of this description of property who, in addition to their legal, had some knowledge of the practical duties of their office, and who, moreover, did not consider themselves as agents of the *individual*, but of *the* bishop, *the* chapter, or *the* college, as the case might be, neither would “the mines have remained unworked, or the timber disappeared from the face of the land.” The fact is, that the error has not been hitherto so much in the system as in mismanagement. Stewards have apparently considered it their duty in assessing fines, not to consider so much what fine was rightfully due, as how much could be immediately obtained. The bishop may have been aged, and the members of the college or chapter constantly changing, and on these accounts future interests have been sacrificed to the principle (if it can be so designated) of obtaining an immediate supply, and thus have the proper receipts from these estates been miserably diminished.

I now come to the question of Compulsory Enfranchisement, as recommended in the report, and advocated in the Bills of the Attorney-General, Mr. Stewart, and Mr. Freshfield in the House of Commons, and in that of the Lord Brougham in the House of Lords.

In former editions of this little Work, I have expressed myself strongly on this point, as one unnecessarily trenching upon the rights and liberties of individuals.

Sir Francis Palgrave, in his remarks upon Copyhold Enfranchisement, alluding to this subject, says, "None seem aware either of its immediate effect or of the consequences necessarily ensuing from a precedent, which, if adopted, will forcibly aid in the subversion of principles and institutions hitherto deemed the best safeguards of our national prosperity;" and again, "such then are the objections to the Bill, so long as, retaining its compulsory clauses, it shall threaten a general invasion of private rights, unwarranted in principle and unnecessary in policy: whilst, if the measure be restricted to such powers as may be needed for facilitating the voluntary commutation of manorial rights, it will be deprived of its revolutionary tendency, and effect every object which ought to be sought." One more extract from the same writer:—"The allegation that 'copyholds are prejudicial to the general interests of the state,' consist of words and nothing more. The allegations of the practical disadvantages of the tenure are much exaggerated, except in cases in and near large towns, and they are all counterbalanced by many advantages, especially in cases of small properties,

by the ease and cheapness with which the title is investigated. Whatever the inconveniences may be, it is certain that they are of far less practical importance than the expense, trouble and perplexity which will result from the proposed improvement."

Mr. Rouse, in his remarks on Copyhold Enfranchisement, which contain a great deal of practical information, and especially on the mode of valuing fines, and other manorial charges, suggests, p. 42, that "Fines should be reduced to a fixed amount on payment to the lord of a compensation, retaining the copyhold titles and system of conveyancing, which are not only much more safe, but far more economical, *the expense of copyhold conveyances being, on the average, literally under half that of freehold conveyances, and the expense of copyhold titles being less than one-fifth that of the freehold titles: there is also not one-third of the litigation with respect to copyhold, as with respect to freehold titles.*"

As I have before observed, I think the principal grievances in copyhold tenure are heriots and arbitrary fines; and I should be glad to see the first removed *in toto*, and the latter reduced to a fine certain, either by the plan suggested by Mr. Rouse, or by the commutation proposed by the Lord Redesdale, giving parties the option to select the one or the other,

as convenience or fancy might dictate: thus far, after much consideration, and perhaps rather in contradiction to my previously-expressed opinions, I am willing to advocate compulsory enfranchisement; but, farther than this, I think it is utterly uncalled for, inexpedient, and unjust.

Every facility may fairly be given to enfranchise, commute, or extinguish copyholds, where all parties are agreed; but it should not be forgotten by those who cry down the general system of copyholds, that, if they are advocates for cheap law, in nine cases out of ten they will find it here. If they admire a system of registration, copyhold property has had that advantage for many centuries.

From what I have said, I hope that I shall not place myself under the charge of opposing enfranchisement altogether, or of checking those who may be desirous, whether lords or tenants, of enfranchising their estates. It is a dear and proud privilege to stand upon our native soil subject—under the laws of the realm—to the beck and interference of no earthly man; and this can only be under that best of titles, *freehold*. The advantage also of reducing all the lands in England to the same tenure is no light matter, simplifying, as it would after a few years, the whole of our conveyancing system; but our partiality to this free tenure

should not blind us to the many advantages of that by copy of court roll, especially to the more humble classes: it is, in truth, the poor man's tenure, by which he is saved many expenses, by which, at a comparatively small outlay, he can secure a plot of land and a humble home, which, if it be not as high in value as freehold land of the same extent, has been purchased at an according price, and is equally available for all agricultural purposes.

It is a tenure which was originally intended to be holden only by the poor and humble, and well is it adapted for such a class of land-owners; and if speculators or men of substance choose to buy up any great quantity of copyhold land, and find themselves burthened with a multiplicity of heriots and other charges, they should not so much abuse a system which was never intended to meet their views, as deprecate their own folly for voluntarily, with their eyes open, selecting a tenure not adapted to their rank in life.

Lord Redesdale deserves the thanks of all persons interested in this description of property, for opposing himself to the despotic plan of compulsory enfranchisement, and which we may now consider to be abandoned altogether. It may, however, be a question how far a corn-rent charge should be adopted by lords of

manors willing to commute their manorial rights. It should not be forgotten that, under the Tithe Commutation Act, the incomes of a great number of English gentlemen (including almost all the clergy) are rendered dependent upon the price of corn ; and, while the popular mind is still in a state of excitement on the amount of protective duty to which the produce of land is entitled, it may fairly be questioned how far a lord of a manor, especially an ecclesiastical lord, would be justified in commuting his rights for an income which might be whistled away by any material alteration in the principle of the corn laws. All landowners would of course suffer, except those possessing good stiff grass lands ; but the owners of a rent-charge would have nothing but ruin before them.

IV. & V. VICT.

Cap. XXXV.

An Act for the Commutation of certain
Manorial Rights in respect of Lands
of Copyhold and Customary Tenure,
and in respect of other Lands subject
to such Rights, and for facilitating
the Enfranchisement of such Lands,
and for the Improvement of such
Tenure.

[*21st June 1841.*]

SYNOPSIS OF THE ACT.

THE first 10 sections of the Act contain provisions relating to the appointment and general powers of the commissioners and assistant-commissioners, and the respective salaries to be paid to them and to the secretaries and other officers to be appointed under the Act.

The 11th section provides for those cases in which lords or tenants may be under legal disabilities.

The 12th empowers lords or tenants to appoint agents on their behalf.

The 13th to the 51st (inclusive of both sections) relate to *general commutation* of rents, fines, and heriots in a manor.

The 52nd to the 55th (inclusive) empower lords of manors and any one or more tenant or tenants to effect a *voluntary commutation*.

The 56th to the 78th section (inclusive) relate to *voluntary enfranchisement*.

The 79th enacts, that after confirmation of the apportionment, &c., in cases of commutation, the customary modes of descent shall

cease, and the lands descend and be subject to dower and curtesy, in like manner as freehold lands.

The 80th exempts gavelkind land from the operation of this Act.

The 81st provides that enfranchised lands shall become freehold; but commonable rights to remain.

The 82nd to 85th (inclusive) preserve various privileges of lords, empower tenants to grant rights of way, &c. to lords of manors for mining purposes, and empower courts of equity to decree partition of lands.

The 86th to 92nd (inclusive) empower lords of manors to hold courts, though no copyhold tenant be present; to admit tenants out of court and out of the manor; provide for cases in which no homage shall be present at a court; declare that presentment by the homage shall not be essential to the validity of an admission; provide that in certain cases lords shall not grant waste lands without consent of homage, and empower lords of manors to grant licences to tenants to alienate their ancient tenements in portions.

The 93rd enacts, that no agreement, &c. under this Act shall be liable to stamp duty.

The 94th to 96th (inclusive) relate to parties giving false evidence, refusing to give evidence, or neglecting to attend after being summoned

by commissioners; to limitations of actions brought against commissioners, &c.; and provide that proceedings under this Act shall not be quashed for want of form, or be removable elsewhere.

97, 98, and 99 declare that certain provisions of this Act shall extend to crown lands, and except the crown lands in the Duchies of Lancaster and Cornwall.

The 100th limits the Act to England, Wales, and Ireland; after which follow the clause for repealing or amending during present session of Parliament, and the interpretation clause. In all, 102 clauses.

ANALYSIS OF THE ACT.

- Commissioners.** Clause 1 enacts, that, "The Tithe Commissioners for England and Wales" for the time being shall be the commissioners for carrying this Act into execution.
- Seal.** 2 enacts, that the commissioners be styled "the Copyhold Commissioners," and shall have a common seal, and that all instruments sealed therewith shall be received in evidence, &c.
- Report proceedings.** 3. The commissioners to report their proceedings from time to time to the Secretary of State, and a general report thereof to be annually laid before Parliament.
- Assistant-commissioners and others.** 4 empowers the commissioners to appoint and remove assistant-commissioners, secretaries, clerks, &c., with a proviso that the said commissioners shall not appoint more than ten such assistant-commissioners to act at any one time, unless with the consent of the Lord High Treasurer, &c. (Similar proviso as to the number of clerks, &c.)
- 5 disqualifies the commissioners and assistant-commissioners from sitting in the House of Commons.
- Limited to five years as to appointments.** 6 limits the operation of the Act as to the appointment of commissioners, assistant-commissioners, &c., to five years after the passing of the Act.
- Salaries.** 7 enacts, that the salaries of the commissioners, assistant-commissioners, &c., shall be from time to time regulated by the Lord High Treasurer, or by the Commissioners of Her Majesty's Treasury, &c., with a proviso that they shall not exceed the sums therein mentioned. (The salaries of commissioners, &c., to be inclusive of those to which they may be entitled under the Act 6 and 7 William IV. (the Tithe Commutation Act).
8. The above salaries and expenses to be paid

out of the consolidated fund of Great Britain and Ireland.

9 sets forth the form of declaration to be made Form of by the commissioners, &c., before entering upon declaration. the duties of their office.

10. The commissioners may delegate such of their powers to the assistant-commissioners as they shall think fit (with certain exceptions).

11 enacts, that in the case of lords or tenants of Lords or tenants under manors being under legal disabilities, &c., the guardian, trustees, or attorney (or such person as shall disabilities. be nominated for the purpose by the commissioners, &c.) shall be substituted in the place of such lords or tenants, with a proviso that if the latter shall be trustees for charities, the annual value of whose estates shall exceed 50*l.*, such trustees shall not sign any agreement or power of attorney, &c., without an order of the Court of Chancery, to be applied for on petition, &c.

12 empowers any lord or tenant of a manor, by Appointment a power of attorney given in writing under his of agents. hand, to appoint an agent to act for him in carrying into execution the provisions of this Act, &c.

13 empowers any lords of any manor whose interest shall not be less than one-fourth of the whole General commutation. annual value of such manor, or any tenant or tenants of any manor to the number of ten, or when there shall not be so many tenants as ten, then one-half of the tenants of such manor to call a meeting of the lords and tenants of such manor, for the purpose of making an agreement for the *general commutation* of the rents, fines, and heriots thereafter to become due in respect of lands holden of such manor, &c., which shall bind all, &c. (such meeting to be twice advertised, and twenty-one days' notice of it to be given.)

14 enacts the terms on which such agreement Terms of agreement. may be made.

15. Such agreement for a commutation of the rights of the lord as aforesaid may also be for the payment of a fine on death or alienation, or at any fixed period or periods to be agreed upon by the

parties, every such fine to be fixed by the agreement, or to be subject to increase or diminution to such an amount *per centum* as shall be expressed in such agreement, &c.

Provisional
agreement.

16. In case it shall appear at any such meeting as aforesaid that the persons present are not sufficient in number and in interest, &c., it shall be lawful, notwithstanding, for any number of the persons present to execute a provisional agreement, and every such provisional agreement which shall be executed within six calendar months from the day of such meeting by such persons as would have been sufficient in number and interest to make a binding agreement at such meeting shall be as binding as if the same had been sufficiently executed at such meeting, &c.

Proportional
interests.

17 directs how proportional interest is to be computed for the purpose of voting, &c.

Adjourned
meetings.

18. Any such meeting may be adjourned, if necessary, from time to time, &c., due notice of every such adjourned meeting being given by the chairman.

Form of
agreement.

19. Every such agreement shall be in such form as the commissioners shall from time to time direct, &c.

Commission-
ers to circulate
forms.

20. Commissioners to frame and circulate forms of notices and agreements and such other instruments as, in their opinion, will further the purposes of this Act, &c.

Suits and
differences.

21. Suits and differences as to rights or boundaries may be referred to arbitration, the decision of the arbitrators to be final and conclusive on all persons, &c.

Ecclesiastical
and corporate
manors.

22. In every case in which any manor or lands shall be held under any archbishop, bishop, dean, &c., and in every case in which any such person, ecclesiastical or other corporation, or body politic, shall be interested in any manor, &c., to the extent of one-third of the value thereof, &c., every agreement to be executed under this Act must receive the consent of such person, ecclesiastical or

other corporation, or body politic, &c.; such consent to be annexed to the agreement for commutation, and taken as part thereof.

23. Every such agreement shall be confirmed by the commissioners, if satisfactory, &c., to the latter, &c., with a proviso for deferring payment of rent-charge under certain circumstances. Agreement to be confirmed by commissioners.

24. At the meeting for commutation, valuers shall be appointed for the purpose of making such valuations, &c., as shall be required for carrying the said agreement into execution, &c. Valuers.

25. The said valuers shall apply to the commissioners for instructions, and shall, upon receipt thereof, proceed to make such valuations as the latter shall require.

26 empowers the said valuers to enter on lands, &c., with a proviso that they must first make a declaration before the commissioners, similar to that made by the said commissioners themselves.

27 enacts, that the stewards of manors shall be required to furnish necessary information, schedules, &c., to the said valuers, for which remuneration shall be made to the said stewards. Stewards to furnish information.

28. The valuers are to take the particular circumstances of each case into consideration.

29 enacts, that the schedules of the valuation shall be deposited with the steward of the manor for inspection, and that a meeting shall be appointed for hearing objections, &c.

30 directs, that the expenses of the proceedings for effecting any commutation under this Act shall be payable, in cases *where the valuers shall be appointed by the tenants*, by the tenants included in the commutation, in rateable proportion to the sum charged on their land respectively under this Act; but *where the valuers shall be appointed by the lord and tenants*, then, if not more than two shall be appointed, the lord shall pay half the costs, and the tenants as aforesaid shall pay half; and where *more than two valuers* shall be appointed, the lord shall pay one-third, and the tenants two-thirds, &c. Expenses how payable.

Schedule
describing
lands, &c.

31 enacts, that a schedule shall be made by the commissioners of the names and descriptions, and of the quantities of the several lands to be comprised in the apportionment, &c.

Copy of schedule to be deposited with steward.

32 directs, that a copy of the schedule of apportionment shall be deposited with the steward or lord for inspection, within the manor, by any parties interested, &c., and that at the expiration of the period allowed for such inspection the copy shall be returned to the commissioners, with a statement of errors (if any).

33 enacts, that two copies of every confirmed instrument or schedule of apportionment shall be made, one to be delivered to the steward of the manor, and the other to the clerk of the peace, &c.

Notice to be given to remaindermen, &c.

34 empowers the commissioners, before confirming any agreement, &c., to require notice thereof to be given to the person next in remainder, reversion, or expectancy, &c.

Errors how corrected.

35 empowers the commissioners to correct errors in any agreement, with the consent of all the parties affected by such error, but not otherwise.

Rent-charge to become payable.

36. From the 1st of January next after the confirmation of every such apportionment the lands of the said manor shall be absolutely discharged from all the lord's rents, fines, and heriots now payable (except in the case of a commutation for a rent-charge), and that, instead thereof, there shall be payable thenceforth to the person mentioned in the said apportionment a rent-charge and fixed fine, &c.

37 provides that the schedule of apportionment shall specify in what events any rent-charge is to be increased or diminished, &c.

If valuers not appointed within six months.

38. If valuers be not appointed within six months after the confirmation of any agreement, or if their valuations shall not have been made, the commissioners may appoint other valuers, &c.

Disputes.

39 empowers the commissioners to hear and determine disputes touching the right to, or amount of, any fines or other manorial payments, &c.

40. Parties interested, who shall be dissatisfied

with the decision of the commissioners, may appeal, by bringing an action in a court of law against the person in whose favour such decision shall have been made, &c.

41 enacts, that no proceedings shall abate or cease by reason of the death of any party interested therein, &c.

42 provides, that in case of the parties dying in whose favour the commissioners, shall have decided, the action may be brought nominally against such parties, as if living, &c.

43 empowers the commissioners to examine witnesses on oath, and to call for papers, &c.

44 empowers the commissioners to order the expenses of witnesses to be paid by the parties interested, &c.

45 enacts, that every tenant paying a rent-charge Tenant paying may deduct the amount from the rent payable by rent-charge. him to his landlord, &c.

46 exempts lands from the provisions of this Act in certain cases, &c.

47. When the rent-charge is in arrear for twenty- When rent-charge in arrear. one days after any half-yearly day of payment, the person entitled thereto may distrain, &c.

48. When the rent-charge is in arrear for forty days after the said half-yearly days of payment, and there is no sufficient distress on the premises, a writ shall be issued directing the sheriff to summon a common jury to assess the arrears, &c.

49 directs how the accounts of the rent and produce of the land are to be rendered, &c.

50 enacts, that the powers of 4 and 5 of William IV. c. 22, shall extend to all rent-charges payable under this Act.

51 provides that this Act shall not affect any rents, &c. due before the 1st of January next following the confirmation of the apportionment.

52 empowers the lord of any manor, and any one Voluntary or more tenants of such manor, to effect a *voluntary* commutation. *commutation*, &c. and herein, of compensation to steward.

53 empowers the lord of the manor to recover commutation fines, &c.

54 empowers the lord and tenants for the time being to effect a supplemental or substituted commutation.

55 provides for the apportionment of rent and fines, &c.

Voluntary
enfranchise-
ments.

56 empowers the lords and tenants of manors to effect *voluntary enfranchisements*, and herein of steward's compensation.

57 enacts, that if such agreement for enfranchisement shall not be entered into by all the tenants of the manor, &c., or their number be less than twelve, if the parties shall think fit, an enfranchisement may be effected with the consent of the commissioners, by such conveyance or deed as would or might be adopted for effecting such enfranchisement if the lord were seised of the manor for an absolute estate of inheritance in fee simple in possession.

Lord's title.

58 enacts, that the commissioners, before giving their consent, shall satisfy themselves of the title to the manor; and that the expenses of the investigation, as well as the general expenses, shall be borne by the parties as may be agreed upon; and, in default, as the commissioners shall direct.

Payment of
purchase-
money, &c.

59 enacts a special provision for the payment of purchase-money, &c. in cases where the lord's interest is a partial one, or where he is under a legal disability, &c.

Payments de-
ferred when.

60 empowers tenants for life, and tenants whose lands are not of more than the annual value of 20*l.*, to defer, in certain cases, the payment of a portion of the consideration for enfranchisement until the next event at which a fine would be payable, &c.

61 enacts, that when the said sum becomes due, the lord of the manor shall become entitled to the rent and profits of the land, and may proceed to obtain possession, &c.

62 empowers tenants, upon certain conditions, to defer the payment of the consideration for enfranchisement, with a proviso that interest at the

rate of 4l. per cent. per annum shall be payable at certain specified periods, &c.

63 enacts a special provision as to lords being tenants for life in cases where payments are deferred by tenants, &c.

64. All lands enfranchised under this Act shall be deemed to be held under the same title as that under which the same were held at the time of such enfranchisement, &c.

65. The general expenses of valuations, &c., shall be paid (excepted when otherwise provided) by the tenants, or by the tenants and lords, in such proportions as the commissioners shall direct, &c. Expences.

66 empowers parties entitled thereto to bring actions for the said expenses against the persons owing them, &c.

67 provides for the recovery of the expenses of Trustees. tenants being trustees, &c.

68. Copyholders having limited interests may charge costs in certain cases, &c.

69. Lords of manors may, in certain instances, charge the expenses and costs, &c. (with interest at the rate of 4l. per cent.), on the manor to which the same may relate, but so, nevertheless, that the principal charge on such manor shall be lessened in every year following such charge by one-twentieth part at least of such original charge thereon, and shall be subject to previous mortgages, &c. Costs charged on manors ;

70 enacts, that lands shall be charged with enfranchisement considerations as on mortgage in fee. to be prior charges.

71 enacts, that every such last-mentioned sum by this Act charged on any lands shall be a first charge on such lands, and shall have priority over all mortgages, charges, and incumbrances whatsoever affecting such lands, *tithe rent-charge excepted*, &c.

72 empowers tenants whose lands shall be enfranchised under this Act to mortgage, &c.

73. All monies for enfranchisement from the lord's right shall be paid to the lord of the manor, where

he shall be absolutely seised as tenant in fee simple in possession of the manor, &c. (Money paid for enfranchisement amounting to, or exceeding 200*l.* to be paid, in certain cases, into the Bank of England, under the Act 1st of George IV. c. 35).

74 provides how the said money is to be disposed of when less than 200*l.*

75 provides how the said money is to be disposed of when not above 20*l.*

76 provides for the case of enfranchisement money being paid to a lord not entitled thereto.

Steward's compensation. 77 enacts, that all sums payable under this Act for compensation to stewards shall be paid to them, their executors, or administrators.

78. The receipts of the persons to whom any sums of money shall be paid pursuant to this Act shall be sufficient discharges for the same, &c.

79. After the confirmation of the apportionment, &c. in cases of commutation, the customary modes of descent shall cease, and that the lands shall descend, and be subject to dower and curtesy, in like manner as freehold lands, &c.

Gavelkind lands exempted. 80 exempts the custom of "gavelkind" (now existing in the county of Kent) from the operation of this Act.

81 enacts that the several lands enfranchised under this Act shall become of freehold tenure, but subject to the payment of the enfranchisement consideration in favour of the lord and steward, &c. (Commonable rights to remain, &c.)

Preserves lord's rights. 82. No commutation under this Act shall operate to affect any rights of lords of manors to escheats, fairs, markets, appointments, royalties, &c., with a proviso that nothing in this Act contained shall operate to authorize any lord of any manor to enclose any common or waste lands, or any part thereof.

83. Nothing in this Act contained shall operate to prevent any commutation or enfranchisement made independently of this Act, nor revive any right to fines or other manorial claims now

barred by any law in force for the limitation of actions or suits.

84 empowers tenants to grant rights of way, &c. to lords of manors for mining purposes, &c.

85 empowers courts of equity to decree a *par- Partition.* tition of lands of copyhold or customary tenure.

86 empowers lords of manors or their stewards, *Customary* after the 31st of December, 1841, to hold customary courts. courts for such manors, although no copyhold tenant be present; with a proviso that no proclamation made at any court so holden shall affect the right of any person not present at the same, unless notice thereof shall have been duly served, &c.

87 empowers the said lords or their stewards *Grants out* after the 31st of December, 1841, to make *out of* of court. *the manors and out of court* grants of lands to be held by copy of court-roll, or according to the custom of the said manor, &c.

88 empowers the said lords or their stewards, *Admission out* after the said 31st of December, 1841, to admit *out of* of court. *of court* any person as tenant to any lands, parcel of such manor, to be held by copy of court roll, or according to the custom of such manor, to and for which such person shall, for the time being, be entitled to be admitted.

89 enacts, that after the 31st of December, 1841, *Surrenders,* every surrender, &c. delivered to the lord or steward, and every fact proved to the lord or steward, at any court whereat a homage shall not be assembled, shall be forthwith entered on the court rolls, &c.

90 enacts, that after the 31st of December, 1841, *Presentment* a presentment by the homage shall not be essential by homage. to the validity of an admission, &c.

91 provided always that lords of manors, in *Waste lands.* certain cases, shall not grant common or waste lands without the consent of the homage assembled at a customary court holden for such manor, &c.

92 empowers lords of manors to grant licences to *Licences to* tenants to alienate their ancient tenements in *alienate in* portions, where they are now restrained by the custom *portions.* from so doing.

- Stamp duty.** 93. No agreement, award, &c., used under this Act shall be chargeable with any stamp duty.
- False evidence, &c.** 94 enacts, that any person under the provisions of this Act wilfully giving false evidence shall suffer the penalties of perjury, and that any person wilfully refusing to give evidence, or to attend in obedience to the summons of any commissioner, &c. shall be deemed guilty of a misdemeanour.
- Limitation of actions ;** 95 provides for the limitation of actions against commissioners, assistant - commissioners, justices, &c. for anything done under the authority of this Act, &c.
- not removable.** 96 enacts, that proceedings under this Act shall not be quashed for want of form, nor be removable by *certiorari*, &c. into any of Her Majesty's courts of record at Westminster, or elsewhere.
- Crown manors.** 97 enacts, that certain provisions of this Act shall extend to crown manors and lands, &c.
- Duchy of Lancaster.** 98 enacts, that, subject as is hereinbefore expressly provided, nothing in this Act contained shall be taken to apply to any manors or hereditaments vested in Her Majesty in right of her crown, or of the Duchy of Lancaster.
- Duchy of Cornwall.** 99 enacts, that this Act shall not extend to the Duchy of Cornwall.
- 100 enacts, this Act shall extend only to England, Wales, and Ireland.
- 101 enacts, that this Act may be amended or repealed during the present session of Parliament.
102. The interpretation clause.

IV. & V. VICT.

Cap. XXXV.

An Act for the Commutation of certain Manorial Rights in respect of Lands of Copyhold and Customary Tenure, and in respect of other Lands subject to such Rights, and for facilitating the Enfranchisement of such Lands, and for the Improvement of such Tenure.

[21st June 1841.]

WHEREAS it is expedient to provide the means for an adequate compensation for the rents, fines, and heriots payable to the lords of manors in respect of lands of copyhold and customary tenure, and in respect of other lands subject to such payments, or any of them, and for facilitating the voluntary enfranchisement of such lands, and for improving such tenure: be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that "The Tithe Commissioners for *England* and *Wales*" for the time being shall be the commis- ^{Appointment of commis-} sioners.

sioners for carrying this Act into execution; and that, should the same not be fully carried into effect before the duties of the said tithe commissioners shall cease, it shall be lawful in such case for one of Her Majesty's principal Secretaries of State to appoint any number of fit persons to be commissioners to carry this Act into execution, in the place of such commissioners so ceasing to act, and at pleasure to remove any one or more of the commissioners so appointed, so that the number of commissioners shall never exceed three; and upon every vacancy in the office of commissioner some other fit person shall be appointed to the said office in like manner; and until such appointment it shall be lawful for the remaining commissioners or commissioner to act as if no such vacancy had occurred.*

Style of commissioners.

II. And be it enacted, that the commissioners acting in the execution of this Act shall be styled "The Copyhold Commissioners," and shall have their office in *London* or *Westminster*; and they, or any two of them, may sit from time to time, as they deem expedient, as a board of commissioners for carrying this Act into execution; and the said commissioners shall cause to be made a seal of the same board, and shall cause to be sealed or stamped therewith all agreements and awards or apportionments confirmed by the said commissioners in pursuance of this Act; and all such agreements, awards, apportionments, and other instruments proceeding from the said board, or

To have a common seal.

Instruments sealed to be received in evidence.

* The commissioners are: *The Rev. Richard Jones*, appointed by the Archbishop of Canterbury; and *William Blamire, Esq.* and *Thomas Wentworth Buller, Esq.* appointed by the Secretary of State.

copies thereof, purporting to be sealed or stamped with the seal of the said board, shall be received in evidence without any further proof thereof; and no agreement, award, or apportionment shall be of any force unless the same shall be sealed or stamped as aforesaid.

III. And be it enacted, that the said commissioners shall from time to time give to any one of Her Majesty's principal secretaries of state such information respecting their proceedings, or any part thereof, as the said principal secretary of state shall require, and shall once in every year send to one of the principal secretaries of state a general report of their proceedings; and every year such general report shall be laid before both Houses of Parliament within six weeks after the receipt of the same by such principal secretary of state, if Parliament be sitting, or if Parliament be not sitting then within six weeks after the next meeting thereof.

Commissioners to report to secretary of state.

Annual report to be laid before Parliament.

IV. And be it enacted, that it shall be lawful for the said commissioners from time to time to employ such of the assistant-commissioners appointed under the provisions of an Act passed in the sixth and seventh years of the reign of His late Majesty King *William* the Fourth, and intituled *An Act for the Commutation of Tithes in England and Wales*, as they shall see fit, or to appoint a sufficient number of other persons to be assistant-commissioners, and also a secretary, assistant-secretaries, and all such clerks, messengers, and officers as they shall deem necessary, and to remove such assistant-commissioners, secretary, assistant-secretaries, clerks, messengers, or officers, or any of them, and on any vacancy in any of the said

Power to appoint and remove assistant-commissioners, secretaries, &c. 6 & 7 W. 4. c. 71.

offices to appoint some other person to the vacant office; and the persons so employed or appointed shall assist in carrying this Act into execution at such places and in such manner as the said commissioners may direct: provided always, that the said commissioners shall not appoint more than ten such assistant-commissioners to act at any one time, unless the Lord High Treasurer, or any three or more of the Commissioners of Her Majesty's Treasury, of the United Kingdom of *Great Britain and Ireland*, shall, in the case of each such additional appointment, consent thereto: provided further, that the number of such clerks, messengers, and officers shall be subject to the like consent.*

No commissioner to sit in House of Commons.

V. And be it enacted, that no commissioner or assistant-commissioner appointed as aforesaid shall during the continuance of such office be capable of being elected or of sitting as a Member of the House of Commons.

Operation of Act as to appointments limited to five years.

VI. And be it enacted, that no commissioner or assistant-commissioner, secretary, or other officer or person so to be appointed, shall hold his office for a longer period than five years next after the day of the passing of this Act, and thenceforth until the end of the then next session of Parliament; and after the expiration of the said period of five years and the then next session of Parliament so much of this Act as authorizes such appointment shall cease.

Salaries and allowances;

VII. And be it enacted, that the salaries of the commissioners, the allowance to the assistant-commissioners, and the salary of the secretary, assist-

* The secretary is *James Stewart, Esq.* of Lincoln's Inn.

ant-secretaries, clerks, messengers, and other officers to be appointed under this Act, shall be from time to time regulated by the Lord High Treasurer, or the Commissioners of Her Majesty's Treasury, or any three of them : provided always, that the salary of a commissioner shall not exceed the sum of two thousand pounds a year, including any salary to which he may be entitled under the said Act of His late Majesty King *William* the Fourth ; nor the allowance to an assistant-commissioner the sum of three pounds for every day that he shall be actually employed or travelling in the performance of the duties of his office, including any allowance to which he may be entitled under the said Act ; nor the salary of the secretary the sum of eight hundred pounds a year ; and that the salaries of the assistant-secretaries, clerks, messengers, and other officers shall be in fit proportion : provided also, that the said Lord High Treasurer, or commissioners of Her Majesty's Treasury, may allow to any commissioner or assistant-commissioner, secretary, assistant-secretary, clerk, messenger, or other officer, any such reasonable travelling or other expences as may have been incurred by him in the performance of his duties under this Act, in addition to his salary or allowance respectively.

VIII. And be it enacted, that the salaries, allowances, and travelling and other expences of the commissioners, assistant-commissioners, secretary, assistant-secretary, clerks, messengers, and officers as aforesaid, and all other incidental expences of carrying this Act into execution not herein otherwise provided for, shall be paid by the Lord High Treasurer, or the Commissioners of Her Majesty's

to be paid
out of consolidated fund.

Treasury, out of the consolidated fund of the United Kingdom of *Great Britain and Ireland*.

Declaration
of commis-
sioners, &c.

IX. And be it enacted, that every commissioner shall, before he shall enter upon the execution of his office, make the following declaration before one of the judges of Her Majesty's Courts of Queen's Bench or Common Pleas, or one of the barons of the Court of Exchequer; (that is to say,)

'I [*A. B.*] do solemnly declare, that I will faithfully, impartially, and honestly, according to the best of my skill and judgment, fulfil all the powers and duties of a commissioner under an Act passed in the fourth year of the reign of Queen *Victoria*, intituled [*here set forth the title of this Act*].'

And that every such assistant-commissioner shall, before he shall enter upon the execution of his office, make the like declaration (substituting the words "assistant commissioner" for the word "commissioner") before such judge or baron, or before any two justices of the peace for the county, riding, division, liberty, or jurisdiction wherein such assistant-commissioner shall be resident at the time of his appointment, or before a Master Extraordinary in Her Majesty's High Court of Chancery; and the appointment of every such commissioner and assistant-commissioner, with the time when, and the name or names of the judge, baron, justices, or master extraordinary before whom, he shall have made the declaration as aforesaid, shall be forthwith published in the *London Gazette*.

Commission-
ers may dele-
gate powers,
&c.

X. And be it enacted, that the said commissioners may delegate to their assistant-commissioners, or to any one or more of them, such of

the powers hereby given to the said commissioners as the said commissioners shall think fit, except the power to confirm agreements, awards, or apportionments, or to frame forms of agreements and other instruments, as herein-after provided, or to do any act herein required to be done under the seal of the said commissioners; and the powers so delegated shall be exercised under such regulations as the said commissioners shall direct; and the said commissioners may at any time recall or alter all or any of the powers delegated as aforesaid, and, notwithstanding the delegation thereof, may act as if no such delegation had been made; and all acts done by any such assistant-commissioner in pursuance of such delegated powers shall be obeyed by all persons as if they had proceeded from the said commissioners, and the non-observance thereof shall be punishable in like manner.

XI. And be it enacted, that whenever the lord or tenant of a manor, or any person interested in any question or right connected with any commutation or enfranchisement under this Act, shall be a minor, idiot, lunatic, feme covert, or under any other legal disability, or shall be beyond the seas, the guardian, trustees, committee of the estate, husband, or attorney of such person respectively, or in default thereof, or in case the party interested shall be unknown or not ascertained, then such person as may be nominated for that purpose by the said commissioners under their hands and seal, after due inquiry shall have been made by them, as to the fitness of such person, shall for the purposes of this Act be substituted in the place of such lord, tenant, or other person: provided always, that if any lord, In case the lord or tenant of a manor shall be under disabilities.

tenant, or other person interested as aforesaid, shall be a trustee for charitable purposes, and the annual value of the charity estate shall exceed fifty pounds, such trustee shall not sign any agreement or power of attorney, or join in any proceedings under this Act, without an order of Her Majesty's High Court of Chancery, to be applied for by petition; but on such order being obtained, or if the annual value of the charity estate shall not exceed fifty pounds, such trustee may sign any agreement or power of attorney, and otherwise join in any proceedings under this Act, as if he had been beneficially interested in such charity estate.

Agent may be
appointed by
power of
attorney.

XII. And be it enacted, that it shall be lawful for any lord or tenant of a manor, or any other person interested in any commutation under this Act, by a power of attorney given in writing under his hand, or in the case of a corporation aggregate under the common seal of such corporation, from time to time to appoint an agent to act for him in carrying into execution the provisions of this Act; and all things which by this Act are directed or authorized to be done by or in relation to any person may be fully done by or in relation to the agent so duly authorized of such person; and every such agent shall have full power, in the name and on behalf of his principal, to concur in and execute any agreement and vote in any question arising out of the execution of this Act, and make any inspection and sign any notice of objection under the provisions of this Act; and every person shall be bound by the acts of any such agent, according to the authority committed to him, as fully as if the principal of such agent had so acted; and the power of

**Revocation
of power of
attorney.**

Form of power of attorney.

G

Meetings may be called of lords or tenants of manors, on twenty-one days' notice, for the purpose of agreeing on terms of commutation.

At such meetings the lord and three-fourths in number of the tenants and three-fourths in value of the interests in the manor may

XIII. And be it enacted, that any lord or lords of any manor whose interest shall not be less than one-fourth of the whole annual value of such manor, or any tenant or tenants of any manor to the number of ten, or when there shall not be so many tenants as ten, then one-half of the tenants of such manor, may call a meeting of the lords and tenants of such manor, by notice thereof in writing under his or their hands, to be affixed at least twenty-one days before such meeting on the principal outer door of the church of the parish within the limits of which the said manor or the greater part thereof in value extends, or on the door or on some conspicuous part of some house or building wherein the courts for the said manor are usually held, and to be twice at least within such twenty-one days inserted in some newspaper (or once in each of two newspapers published in successive weeks) generally circulated in the county within which the said manor or the greater part thereof in value extends, for the purpose of making an agreement for the general commutation of the rents, fines, and heriots thereafter to become due in respect of lands holden of such manor, and of the lord's rights in timber; and every lord and tenant attending such meeting shall bear his own expences of attendance; and the lord and tenants who shall be present at any such meeting called as aforesaid, such tenants not being less in number than three-fourths of the tenants of such manor, and the interest of the lord and the interest of the tenants in the manor and lands respectively not being less than three-fourths of the interest in the value thereof respectively, computing the interest of tenants as herein-after is

provided, may proceed to make and execute such an agreement as is herein-after mentioned for the commutation of the rents, fines, and heriots there- after to become due in respect of the lands holden of the said manor, and of the lord's rights in timber; and if expressly agreed between such lord and tenants, the commutation may be made to extend to rights in mines and minerals, but otherwise shall not extend to or affect such rights; and thereupon such agreement shall be reduced into writing, and a memorandum or minute thereof shall be signed by the persons so agreeing to such commutation, or by their respective agents.*

XIV. And be it enacted, that such agreement for a commutation of the rights of the lord may be for the payment of an annual sum by way of rent-charge, and of a small fixed fine upon death or alienation, which shall in no case exceed the sum of five shillings, such rent-charge to commence, either in whole or in part, according as the said commissioners shall direct, from the date herein-after mentioned (except where otherwise directed by the said commissioners), and to be valued and variable (when such rent-charge shall exceed twenty shillings) according to the price of corn, in like manner as is mentioned and provided with regard to the Tithe Commutation Rent-charge in and by the said Act for the Commutation of Tithes in *England and Wales*; and the amount of every such

for the general
commutation
of rents, fines,
&c.

Terms on
which agree-
ments may be
made.

* It will be better for tenants, where they have the power, to commute for the lord's rights in mines and minerals, however valueless in some instances such rights may appear: in such cases the commutation sum would be but trifling; and there is some satisfaction (if nothing more) in feeling that one's lands are, in truth, free.

rent-charge may be specifically stated in such agreement, or separate rent-charges may be therein agreed upon between the lord and any one or more tenants, parties to the agreement, or the agreement may provide that the entire rent-charge, though stated therein, shall be subject to increase or diminution by the valuers to be appointed as herein-after mentioned to such an amount *per centum* as shall be therein expressed, or that such separate rent-charges as aforesaid shall be subject to increase or diminution to a given amount *per centum*, in certain events to be specified in the agreement; and the agreement may also determine the apportionment for each tenant, or it may provide that the entire rent-charge, or the apportionment thereof, shall be fixed by such valuers, subject to the approbation of the said commissioners; and it may be agreed that so much of the rent-charge, to be apportioned as aforesaid in respect of the lands of any tenant, as shall be in lieu of fines, or other manorial rights to which such tenant would not be liable thereafter during his tenancy, shall not commence until the period of the next act or event on which a fine or such other manorial right would have become payable or due, and that the amount of such rent-charge shall be then increased accordingly; but such agreement shall not fix the time for the commencement of the rent-charge to be apportioned in respect of the lands of any tenant who shall not be party to such agreement; and all other provisions may be made for carrying into execution the intention of the parties and of this Act, so that nothing in such agreement contained (unless every tenant included therein shall be a party thereto) shall exclude or prevent the exercise of the powers

herein-after contained for apportioning the rent-charge according to the particular circumstances of each tenement, and for the relief of tenants for life and other persons in the cases herein-after provided for ; and such agreement may fix a scale of fees to be payable to the steward from and after the confirmation of the apportionment, but so nevertheless as ^{Steward's compensation.} not to effect the interests of any steward in office at the time of the passing of this Act who shall hold his office for life or during good behaviour, or of any steward of a manor so in office as aforesaid where the usage shall have been such as in the opinion of the said commissioners to lead to a just expectation that the steward will hold his office during his life or good behaviour ; and such agreement may provide for the costs of the proceedings under this Act, subject to the approbation of the said commissioners : provided always, that in case of doubt or difference as to the sufficiency of interest of the parties to any such agreement the decision of the said commissioners thereon shall be conclusive ; and every agreement so made and executed, and confirmed in manner herein-after mentioned, shall be binding on all persons interested in such manor or lands.*

XV. And be it enacted, that such agreement for ^{Commutation} a commutation of the rights of the lord as aforesaid ^{may take place}

* The only objection which a lord desirous of commuting his rights can have to this measure is, the uncertainty which hangs over the long-debated question of the corn-laws. Opinions are so conflicting with regard to the merits or demerits of the present laws, that it is enough to call attention to this point ; and lords must judge for themselves. I think, however, that ecclesiastical lords should watch the course of events for a season before they incur the responsibility of a change which, at any rate, *might* grievously affect

in consideration of a fine on death or alienation, or at a fixed period.

may also be for the payment of a fine on death or alienation, or at any fixed period or periods to be agreed upon by the parties, every such fine to be fixed by the agreement or to be subject to increase or diminution by the valuers, to be appointed as herein-after mentioned, to such an amount *per centum* as shall be expressed in such agreement, but in either case to be valued in bushels of wheat, barley, and oats in the same manner as the Tithe Commutation Rent-charge, and to be subject, in like manner as such rent-charge, to variation according to the prices ascertained by the advertisement provided for by the said Act for the Commutation of Tithes in *England* and *Wales*, to be published next before the time of the happening of the act or event on which the fine shall become payable.

Provisional agreements may be made.

XVI. And be it enacted, that the said lord and tenants present at such meeting shall elect a chairman (the vote of the lord being reckoned as equal to one-third of the whole number of votes, and the votes of the tenants being reckoned individually), who shall forthwith proceed to ascertain the number and interest of the lord and tenants then present in person or by their agents;* and in case it shall

the interests of their successors. My own opinion is that the present sliding scale of duties is a protection to the farmer, and that such protection is necessary; and that, were it withdrawn, poor lands would go out of cultivation, and, in consequence no rent-charge be forthcoming: it is true enough that those holding such lands would be in a deplorable condition; but still they might *plant*, which the owner of a rent-charge could not.

* The chairman should *first* ascertain that all the forms which the Act requires have been complied with in calling the meeting; because, if not, all subsequent proceedings would fall to the ground.

thereupon appear that the persons present at such meeting are not sufficient in number and interest, or a sufficient portion are not willing to make and execute such an agreement as shall be binding on all persons interested therein, it shall be lawful, notwithstanding, for any number of the persons present to make and execute a provisional agreement of the like form and tenor; and every such provisional agreement which shall be executed within six calendar months from the day of such meeting by such persons as would have been sufficient in number and interest to make a binding agreement at such meeting shall be as binding as if the same had been sufficiently executed at such meeting.

XVII. And be it enacted, that the proportional interest of the tenants, so far as relates to their power to make such agreement or provisional agreement, or to appoint valuers, or to give any notice to the said commissioners or assistant-commissioners, as herein-after provided, shall be computed in manner herein-after mentioned; that is to say, the interest of every tenant liable to fines arbitrary or uncertain in amount shall be estimated according to the proportional sum at which their lands shall be rated to the relief of the poor in the parish or place wherein the same are situated, and, if any lands shall not be distinctly rated, then in respect of such lands according to the rules by which property of the same kind is in the said parish rated to the relief of the poor; and when such rating cannot be ascertained, then the interest in respect thereof shall be estimated at such proportion, not exceeding two-thirds of the last fine arbitrary paid on admission to the said lands, as the chairman at

Proportional
interest how
to be com-
puted for pur-
pose of voting.

the said meeting shall consider nearest in amount to the yearly value of the same lands; the interest of tenants liable to fines certain shall be estimated according to such rule as shall be specially made for the occasion by the said commissioners on the application of the lord or tenants by whom the meeting shall have been called, or, for want of such rule, as if the annual value of their respective lands were one-half of the amount of such fine certain; the interest of tenants liable to heriots in kind shall in respect of such liability be estimated according to such rate as shall be specially made for the occasion by the said commissioners on such application as aforesaid, or for want of such rule at one-fifth of the annual value of their respective lands, as nearly as the same can be estimated by the chairman at any such meeting; and the interest of no person shall be computed in respect of a copyhold estate who has not been admitted tenant thereof according to the custom of the manor, or who has made an absolute surrender of all his estate and interest therein; and it shall be lawful for the said commissioners to make special rules respecting the computation of the interests of tenants liable to fines certain, heriots, rights in timber, and other manorial rights (if any) which may be the subjects of any proposed commutation, on the application or with the consent of a majority of the parties interested, and previous to the execution of any agreement, and such rules shall have the same force as if made by this Act.

Meetings may
be adjourned, XVIII. And be it enacted, that in case an adjournment of the said meeting shall for any cause

be desired by a majority in number of the persons attending such meeting in person or by attorney as aforesaid, the chairman shall adjourn the meeting to any time and place then by him to be declared, and so from time to time in case the same shall be in like manner desired by a majority in number of the persons attending such meeting as aforesaid; and notice of every such adjourned meeting shall be given under the hand of the chairman, and shall be affixed in a conspicuous place on the outside of the building in which such meeting, or the last adjournment thereof, shall have been holden, and shall be once advertised in a newspaper as aforesaid; and the like order of proceeding shall be observed at every such adjourned meeting; and every thing done at any such adjourned meeting shall be as valid as if done at the original meeting.

XIX. And be it enacted, that every such agreement shall bear date on the day on which the first signature is attached thereto, or to the memorandum or minute thereof, and shall be in such form as the commissioners shall from time to time direct, or to the like effect.

XX. And be it enacted, that the said commissioners shall frame and cause to be printed, so soon as conveniently may be after their appointment or beginning to act, forms of notices and agreements, and such other instruments as in their judgment will further the purposes of this Act, and supply all or any of such forms to any person or persons requiring the same, or to whom the said commissioners shall think fit to send the same, for the

Agreement to be in the form which commissioners shall direct.

Commissioners to frame and circulate forms, &c.

Suits and differences as to rights or boundaries may be referred to arbitration.

use of any lord or copyholder or other tenant desirous of putting this Act into execution.*

XXI. And be it enacted, that if any action or suit shall be pending touching the right to or amount of any fines, heriots, or other manorial rights, or touching the situation or boundary of any manor or lands, or if any difference shall arise whereby the making and executing of any such agreement, or of any enfranchisement under this Act, shall be hindered, it shall be lawful for the lord and tenants or claimants, being parties to such action, suit, or difference, to submit the same to reference by any writing under their respective hands, containing an agreement that such submission shall be made a rule of any of Her Majesty's courts of law, upon such terms of reference as the said parties may agree upon; and the decision of the arbitrator or arbitrators named in the said reference shall be final and conclusive on all persons; and when such arbitrator or arbitrators shall be appointed for the purpose of determining any unknown or disputed boundary of any manor or lands, he or they shall and may have and exercise all the powers which may be exercised by any referee appointed under and by virtue of the provisions of an Act passed in the third year of the reign of His late Majesty King *William the Fourth*, intituled *An Act to authorize the identifying of Lands and other Possessions of certain Ecclesiastical and Collegiate Corporations*: provided nevertheless, that no

2 & 3 W. 4.
c. 80.

* Any party interested in the enfranchisement of copyholds, or commutation of the lord's rights, may have the necessary forms by applying to the secretary at Somerset House; they should in such application, if made by letter, specify clearly what rights are intended to be commuted, &c.

person, being owner of an estate in a manor or lands less in the whole than an immediate estate of fee simple or fee tail, or corresponding copyhold estate, shall be empowered to submit to any such reference, so as to bind any person in reversion, remainder, or expectancy, without the consent of the said commissioners; and that it shall be lawful for the said commissioners, if they shall think fit so to do, but not otherwise necessary, to direct that any person in reversion, remainder, or expectancy whom they shall deem to be interested therein shall be made a party to such reference.*

XXII. Provided always, and be it enacted, that in every case in which any manor or lands shall be held under any archbishop, bishop, dean, dean and chapter, archdeacon, or any ecclesiastical or other corporation, or any body politic, and in every case in which any such person, ecclesiastical or other corporation, or body politic, or patron of any living, shall be interested in any manor or lands to the extent of one-third of the value thereof, computed as to such lands as aforesaid, or if it shall appear to the said commissioners that the interests of such person, ecclesiastical or other corporation, or body politic, would be affected by the commutation or enfanchisement under this Act, no agreement to be made and executed under this Act shall be deemed to be executed by the said lord and tenants unless the consent of such person, ecclesiastical or other corporation, or body politic shall be given under the

Consents to
be required to
agreements.

* Nothing is more difficult than selecting a proper arbitrator. The general charge against those who undertake these duties is, that they think more of splitting the difference between the contending parties, than of the real merits of the case.

hand or seal of the person, ecclesiastical or other corporation, or body politic, or patron of such living giving the same; and such consent shall be annexed to the agreement for commutation or enfranchisement, and taken as part thereof.*

Agreements to
be confirmed
by the com-
missioners.

XXIII. And be it enacted, that every such agreement, as soon as may be after it shall have been executed by the lord and tenants to the number and value as aforesaid, shall be sent by the chairman of the meeting, or by the person in whose custody it shall then be, to the office of the said commissioners; and the said commissioners, by themselves or by some assistant-commissioner, shall cause inquiry to be made, and shall require such proof as will be satisfactory to them, whether or not it ought to be confirmed; and if they shall be satisfied that it ought to be confirmed, the said commissioners shall confirm the agreement under their hands and seal, and shall add to such agreement the date of the confirmation, and shall publish the fact of such confirmation, and the date thereof, within the manor, in such way as they shall deem fit; and every such confirmed agreement shall be binding on all persons interested in the said manor and on all persons interested in the said lands, and shall not be liable to be invalidated by reason of any doubt or question as to the sufficiency in the number and interest of the parties entering into such agreement; provided always, that it shall be lawful for the said commissioners, by themselves or by some assistant-com-

* People holding under the parties enumerated in this section will do well to ascertain the views of their respective ecclesiastical and other lords, with respect to commutation or enfranchisement, before they take any steps which may subject them to unnecessary vexation and expence.

missioner, at their discretion, if the circumstances of the case shall in their opinion require it, to direct that the rent-charge to be paid by any particular tenant or tenants shall not commence until the period of the next act or event on which the fine or other manorial right for which such rent-charge shall be commuted would have become due and payable, and that the amount of such rent-charge shall be then increased in such proportions as the said commissioners or assistant-commissioner shall think proper.

XXIV. And be it enacted, that at the said meet- Appointment
ing for commutation, or at some adjournment there- of valuers.
of, or at some other meeting to be called in like manner, either before or after the confirmation of the agreement, such agreement not being an imperfected provisional agreement, valuers shall be appointed in manner herein-after mentioned, for the purpose of making such valuations, apportionments, and schedules as shall be required for carrying the said agreement into execution; and in case such commutation shall be agreed to be made in consideration of a rent-charge payable to the lord, and fixed by the agreement, the tenants present at such meeting shall appoint a valuer or valuers; and in case the majority in respect of number and the majority in respect of value (computed as aforesaid) shall not agree upon the appointment, then they shall appoint two or such other even number of valuers as shall be then agreed on by such tenants, half of such number of valuers to be chosen by a majority in respect of number and the other half by a majority in respect of value (computed as aforesaid) of the tenants then present in person or

by their agents; but in case of such commutation shall be in consideration of a rent-charge, the amount whereof shall not be fixed by the agreement, but shall be liable to increase or diminution by the valuers, or shall be left to be determined by them, with the approbation of the said commissioners, then and in either of the said cases one half of the number of valuers shall be appointed by the lord, or the majority of the lords in value, and the other half by the tenants in manner aforesaid, or such respective parties may concur in the appointment of one or more valuer or valuers; and any question which may arise as to the regularity of the appointment of such valuer or valuers shall be decided by the said commissioners.

Valuation.

XXV. And be it enacted, that as soon as may be after the choosing such valuers, and after the confirmation of the said agreement, the said valuers shall apply to the said commissioners for instructions as to the duties to be performed by them pursuant to such agreement, and having received such instructions shall proceed to make and send in to the said commissioners such valuations, apportionments, and schedules as they shall require; and whenever an even number of valuers shall be chosen, it shall be lawful for the said commissioners, by any writing under their hands and seal, (to be communicated either together with or as soon as conveniently may be after the said instructions), to appoint a fit and proper person to be an umpire between such valuers; and the decision of the umpire on the questions in difference between the valuers shall be binding on them respectively, and shall be adopted by them respectively in their valuation.

XXVI. And be it enacted, that the said valuers and umpires respectively (if as to such umpires it shall become necessary for them to act respectively), and their agents or servants, at all reasonable times, may, on producing an authority under the hand and seal of the said commissioners or assistant-commissioners, enter upon any of the lands and premises affected by such agreement, and make an admeasurement, plan, and valuation or inspection of the same, without being subject to any action or molestation for so doing: provided always, that no valuer or umpire shall be capable of acting until he shall have made and subscribed before the said commissioners or some assistant-commissioner, or a justice of the peace or master extraordinary in chancery, a solemn declaration to the same purport and effect as the declaration herein-before directed to be made by the said commissioners, substituting only the proper description of the office held by such person for that of a commissioner; which declaration it shall be lawful for the said commissioners, assistant-commissioner, justice of the peace, or master extraordinary to administer; and every such declaration so made and subscribed shall be countersigned by the person before whom the same shall have been made, and shall be sent by him to the office of the said commissioners.

Valuers may enter on lands, &c.

Not to act until he shall have made a declaration.

XXVII. And be it enacted, that for the purpose of enabling the said valuers to make such valuations, apportionments, and schedules, and otherwise to facilitate commutations under this Act, the steward of the manor for the time being shall, on request by the said valuers, or any of them re-

Stewards to furnish information required by the valuers or the commissioners;

spectively, or the chairman of any meeting or adjournment thereof, or of any three tenants having signed the notice of an intended meeting, make out, so far as his information may enable him, within such period and in such manner as the said commissioners shall direct, a correct statement in writing of the several tenants of the said manor, and of the respective lands to which they shall respectively stand admitted for life or otherwise, or which they shall hold subject to fines, heriots, or other manorial rights, and of the amount to which the same lands are rated to the relief of the poor, so far as he can distinguish or estimate the same, and of the amounts received by the lords on account of the three last heriots in respect of any such lands, and of any other information which the said commissioners shall from time to time direct, and which as such steward he can procure and produce without prejudice to the rights and interests of the lord of the said manor; and the said steward shall produce the said statement for inspection at any such meeting or adjournment thereof, on being paid for the same as herein-after provided, and shall deliver to or allow any extracts thereof as to such rating to be taken by the chairman of such meeting, and shall, upon request by the said valuers, and being paid as aforesaid, deliver to them respectively a true copy of such statement or the parts thereof required by them; and for preparing such statement the said steward shall receive from the person requiring the same such a remuneration as shall have been agreed upon, or, in case of difference, such a sum as the said commissioners shall under their hands and seal order and direct, and for

copies or extracts thereof the sum of four-pence for every seventy-two words; and the said steward and make a schedule or statement as the lord, shall, within three calendar months after the signature of the said agreement, or whenever required by the said commissioners, make out and send to the said commissioners such information and in such form as the said commissioners shall from time to time require, and as the said steward, or, if there shall be no steward, the lord, can procure and produce, without prejudice as aforesaid; and for the purpose of ascertaining the ages of any tenants it shall be lawful for the steward or lord to apply personally, or by letter sent by post, and addressed to the particular tenant at his usual place of abode, for such information, and every tenant refusing or neglecting for the space of twenty-one days to give such information shall not be entitled to have any amendment made in such schedule by reason of any error the steward may commit in inserting such age, or to object to the apportionment herein-after mentioned by reason of such mis-statement of age, unless the said commissioners shall see cause otherwise to direct; and any tenant falsely stating his or her age shall forfeit and pay such sum, not exceeding the sum of ten pounds, as the said commissioners shall under their hands order and direct, and which shall be added to the amount to be payable by him or her under the apportionment, and recoverable in like manner, and applied in and towards the costs of apportionment or other costs of commutation as the said commissioners shall direct, or shall be recoverable by distress or action as herein-after, provided with respect to costs pay-

and make a
schedule or
statement as
the commis-
sioners may
direct.

Stewards may
require infor-
mation from
tenants, &c.
as to age, &c.

Penalty on
tenant for
default.

able under this Act; and the said steward shall receive for the said schedule, and the expence of application as to ages and rates, such sum as the said commissioners shall think fit and proper to allow for the same, with the other costs of apporportionment; and in like manner such steward or lord shall from time to time make out and send to the said commissioners, upon request, all statements, schedules, and information which they shall from time to time require, from the court rolls, quit rentals, and other documents of the like nature; and in case default shall be made by the steward or lord in complying with any such request he shall forfeit such sum and sums, not exceeding the sum of five pounds, as the said commissioners shall from time to time in their discretion order and direct, and which sums shall be deducted from any compensation to be awarded or sum to be allowed to him under this Act.*

Valuers to take particular circumstances of each case into consideration.

XXVIII. And be it enacted, that when the said valuers shall be so instructed by the said commissioners, pursuant to such agreement, they shall accordingly proceed in the discharge of the duty intrusted to them; and in every case in which the agreement shall have provided that the rent-charge or (where the commutation shall be for the payment of a fine on death or alienation) that the

* Where the court rolls and survey books of a manor have not been kept with care, the particulars which the steward is required to furnish will occupy him some time. With regard to the ages of the respective tenants, this is presumed to apply to the ages only of those upon whose decease a fine or heriot would accrue to the lord: thus where a man holds for three lives, neither of which is his own, he is the tenant; but the ages required to be produced must be, of those three lives.

commutation fine shall be subject to increase or diminution by the valuers, or that the amount of the rent-charge shall be fixed by them, the said valuers shall proceed to determine, within the limit prescribed by the agreement, the amount of increase or diminution, or shall ascertain the amount to be paid by way of rent-charge (as the case may require); and the said valuers shall afterwards, or where the rent-charge shall be specifically stated in the agreement, and shall not have been apportioned thereby, shall at once proceed to apportion the total sum to be paid by way of rent-charge; and in regulating the amount of rent-charge, and also in making such apportionment, the said valuers shall take into account the facilities for improvement and all other circumstances relating to the land which shall be included in such commutation, and shall make due allowance for the same; and shall also take into consideration the relative situations of the lord when tenant for life or having other limited interest and the respective rights of such lord and of those entitled in remainder or reversion to the manor, and what portion of such rent-charge should be paid to such lord, being tenant for life or having other limited interest, and how the residue thereof should be applied, and whether the whole of such rent-charge, or whether only a part thereof, should be paid to the lord, being tenant for life or having other limited interest in the manor; and when the tenant shall have only a life estate or other limited interest in his land it shall be lawful for the said valuers to state what proportion (if any) of the rent-charge to be paid in respect of such land should be deferred until the next act or

event in which a fine would become due to the lord; and the said valuers shall also state generally whether and in what cases, in their opinion, the payment of the rent-charge, or of part thereof, should be deferred, and shall state such other particulars as may enable the said commissioners to defer payment of the whole rent-charge, or of any part thereof, if they shall think fit; and the said valuers shall state the amount of the fine (not exceeding five shillings) to be thereafter payable upon death or alienation in respect of each tenement; and they shall, if so instructed by the commissioners, make an apportionment of the costs of the proceedings under this Act, subject likewise to the approbation of the said commissioners; and it shall also be lawful of the said valuers to make such other allowances as they shall deem just for the particular circumstances of the several tenements, so that such allowances shall not be inconsistent with the said agreement for commutation, and the instructions received from the said commissioners.*

Schedules of valuation to be deposited for inspection, and a meeting appointed for hearing objections.

XXIX. And be it enacted, that as soon as the valuations, apportionments, or schedules to be so made by the said valuers as aforesaid shall have been sent to the said commissioners, they shall cause a copy of the same to be deposited in the hands of the steward for the time being of the manor, or if there shall be no steward with the

* Land should be valued in its pure state, according to its capabilities, and not according to the condition to which one tenant by extra labour and expense, or another by ignorance or neglect, may have brought the same.

As copyholders are bound to keep their tenements and buildings in proper order, they should be considered, in all valuations, to be in proper order.

lord of the said manor, or with such person as they shall see fit, for the inspection of all persons interested therein within the manor, or within a parish wherein part of the manor is situated, and shall forthwith cause notice to be given, through such steward or lord, or in such manner as to the said commissioners shall seem fit, of such copy being so deposited for inspection, and which inspection shall at all reasonable times, up to the meeting, after mentioned, be allowed by such steward or lord without fee (and for every neglect to allow which such steward or lord shall forfeit such sum not exceeding twenty shillings as the said commissioners shall order and direct, and which shall be deducted from the sums payable to such steward or lord under this Act); and in such notice such place and time, or places and times, shall be fixed as the said commissioners shall think fit (the first not earlier than twenty-one days from the first giving such notice) for holding a meeting for hearing and determining objections to the said valuation, or the amount of costs claimed by the said valuers, or to the said steward's schedule, by any parties interested; and the said commissioners or some assistant-commissioner (to whom respectively such steward or lord shall on the day before or previous to the commencement of such first meeting, as required, deliver such copy of the said valuations, apportionments, or schedules, with all notices received, as herein-after provided), shall at such meeting or meetings hear and determine any objection which may then and there be made against the said valuations, apportionments, or schedules respectively, or any part thereof, or adjourn the further

Hearings may be adjourned.

hearing thereof, if they or he shall think proper, to a future time, and may, if they or he shall see occasion, direct any further valuations, apportionments, or schedules, inquiries or statements, to be made, and from time to time fix further meetings for the hearing and determining objections, of which further meetings, when not holden by adjournment, notice shall be given in manner herein-before directed with regard to the original meeting; provided that, unless upon cause shown to the satisfaction of the said commissioners, no person shall be entitled to make any objection to any such valuations, apportionments, or schedules, who, being the lord of the said manor, shall not have left notice in writing of such intended objection at the office of the said commissioners ten days before the time fixed for any such meeting, exclusive of the day of leaving such notice, but inclusive of the day of meeting, or who, being any person other than the lord of the said manor, shall not have left notice in writing of such intended objection with or for the steward or lord of the said manor with whom such copies shall be deposited, at the place of deposit thereof, ten days before the time fixed for any such meeting, exclusive of the day of leaving such notice, but inclusive of the day of meeting, forms of which notices shall be forwarded by the said commissioners to the said steward or lord or other person, and shall be by him delivered to any interested party requiring the same; and which last-mentioned notices the said steward or lord or other person shall, immediately on receipt thereof, annex to such copies or one of them, and shall note such objection on the copy to which the same relates,

and allow the inspection of the said notices, in like manner and under the like penalty as aforesaid; and any default in any of the several matters and things herein-before required shall also subject such steward or lord or other person to the like penalty; and when the said commissioners or assistant-commissioner shall have heard and determined all such objections they and he are and is hereby required to cause such valuations, apportionments, or schedules to be amended as occasion shall require, and also from time to time, whether at such meeting or not, to amend the steward's schedule, so as to show all deaths and alterations in ages of the tenants or otherwise taking place after making out the same, and before the apportionment herein-after provided for, on being satisfied by the affidavit or declaration, as the case may be, of the steward, sworn or taken before a master extraordinary in chancery, or by such other proof as they or he may deem sufficient, that such amendments and alterations are required.*

XXX. And be it enacted, that the expences of the proceedings for effecting any commutation under this Act shall (except in cases where from special causes the said commissioners shall direct otherwise, and then as they shall direct, and except in cases where the parties to the said agreement shall therein otherwise provide, and then as they shall have provided), be payable in manner following; (that is to say), where the valuers shall be appointed by the tenants, the costs of the valuations, apportionments, and schedules shall be paid

Expences of
proceedings
under the Act.

* As this section subjects lords and stewards to sundry penalties, they will do well to peruse it carefully.

by the tenants included in the commutation, in rateable proportion to the sum charged on their land respectively under and by virtue of this Act; but where the valuers shall be appointed by the lord and tenants as aforesaid, then if not more than two shall be appointed the lord shall pay half the costs, and the tenants as aforesaid shall pay half; and where more than two valuers shall be appointed the lord shall pay one-third, and the tenants as aforesaid shall pay two-thirds; and in all cases of dispute or difference as to the amount of the costs, or the persons on whom any costs should fall, the said commissioners shall have power to decide the same.*

Schedule to
be made by
the commis-
sioners.

XXXI. And be it enacted, that forthwith after the receipt of the valuations, apportionments, or schedules so settled, the said commissioners shall cause a schedule of apportionment to be made, wherein shall be stated the name or description, and the true or estimated quantity in statute measure, of the several lands to be comprised in the apportionment, and shall set forth the names and descriptions of the several proprietors and occupiers thereof, and the schedule of apportionment shall also state the amount of rent-charge charged upon the said several lands, or, where the commutation shall be for a fine payable on death or alienation, the amount of commutation fine to become payable in respect thereof upon death or alienation, and the periods at which the several rent-charges shall become due and payable; and in cases of commutation

* Where the lord receives only nominal fines, and it may yet be deemed advisable to commute or enfranchise, his expences, it is presumed, will be according to his actual interest. The proportion of expences to be paid by lord and tenant should be settled at as early a period as possible.

for a rent-charge such schedule shall also state the amount of fine (not exceeding five shillings) to be thenceforth payable upon death or alienation in respect of each tenement; and such schedule shall further state to whom and in what right the same shall be respectively payable; and the said schedule shall contain all such other awards, orders, and declarations as shall be required for carrying the provisions of this Act into execution.

XXXII. And be it enacted, that the said commissioners shall forthwith after making such schedule cause a copy thereof to be deposited with the steward, lord, or other person as aforesaid, for inspection, within the manor, or within some parish where part of the manor is situate, by any parties interested, and give notice of such power to inspect, and which inspection during such period as the said commissioners shall direct shall be allowed as aforesaid, under the penalty aforesaid, recoverable as aforesaid; and at the expiration of that period the said steward, lord, or other person as aforesaid shall return the same copy or copies to the said commissioners, together with any notice he may have received during that period, pointing out any errors therein, and a statement of any errors which he may have discovered therein; and the said commissioners shall forthwith inquire into and rectify any such errors therein, and shall cause the said schedule of apportionment to be ingrossed on parchment or paper, and annex thereto any agreements, schedules, maps, plans, or other documents or writings required for elucidation thereof, and shall confirm such apportionment under their hands and seals, and shall add thereto the date of such confirmation.

Schedule of
apportionment
to be inspect-
ed, errors
pointed out,
and schedule
then con-
firmed.

Copies to be deposited with the steward of the manor and the clerk of the peace.

XXXIII. And be it enacted, that two copies of every confirmed instrument or schedule of apportionment and confirmed agreement, and schedules to be annexed thereto or written in the same book therewith, shall be made, and sealed with the seal of the said commissioners, and one such copy shall be delivered to the steward of the manor, to be deposited and kept with the court rolls thereof, and the other copy shall be deposited with the clerk of the peace for the county or jurisdiction within which the said manor or the greater part thereof in value, computed as aforesaid, shall be situated, to be by him and his successors in office kept with the papers and books of the clerk of the peace for the time being; and all persons interested therein may have access to the said copies respectively, and shall be furnished with copies of or extracts from any such copy, on giving reasonable notice to the party having the custody of the same, and on payment of two shillings and sixpence for each inspection, and after the rate of two-pence for every seventy-two words contained in such copy or extract; and every recital or statement in, or agreement, schedule, map, plan, document, or writing annexed to such confirmed apportionment, shall be deemed satisfactory evidence of the matters therein recited or stated, or of the accuracy of such map or plan; and such deposit shall be notified by an advertisement or otherwise as the said commissioners may from time to time direct.

Notice to parties.

XXXIV. And be it enacted, that the said commissioners, if they shall see fit, before confirming any agreement, valuation, assessment, schedule, or apportionment, may require notice thereof to be given

in such manner as they shall direct to the person next in remainder, reversion, or expectancy of an estate of inheritance in any manor or lands, or any other person to whom they may think notice ought to be given, and may by themselves or by some assistant-commissioner hear and determine any objection made to such confirmation by any person so interested therein.*

XXXV. And be it enacted, that it shall be lawful for the said commissioners to correct or supply any manifest error or omission in any agreement, valuation, assessment, schedule, or apportionment, at any time after the same shall respectively have been made or confirmed, with the consent in writing of all the parties affected by such error or omission, but not otherwise.

Commissioners may correct errors, with consent.

XXXVI. And be it enacted, that from the first day of *January* next following the confirmation of every such apportionment the lands of the said manor shall be absolutely discharged from the payment of all the lord's rents, fines, and heriots, (save and except, in the case of a commutation for a rent-charge, a fixed fine not exceeding the sum of five shillings, to be stated in every such apportionment as aforesaid, and which shall be payable to the lord in every case of death or alienation,) and from the lord's right of timber, and any other right of the lord which may be the subject of commutation, and instead thereof there shall be payable thenceforth, or from such time as shall be fixed by the said commissioners, to the person in that behalf mentioned

Lands to be discharged from rents, fines, and heriots now payable, and a rent-charge and fixed fine to be paid in lieu thereof.

* This notice should be given in all cases where the remainderman, reversioner, or other person is not in some other capacity a party to the measure.

in the said apportionment, the yearly sum of money mentioned therein, where the same shall not exceed twenty shillings, and in other cases a yearly sum of money which shall be deemed to be of the value of such number of imperial bushels and decimal parts of an imperial bushel of wheat, barley, and oats respectively as such sum would have purchased if equal third parts thereof had been invested in the purchase of those respective descriptions of grain at the prices ascertained by the advertisement provided for by the said Act for the Commutation of Tithes in *England* and *Wales* next preceding the passing of this Act; that is to say, at the price (for wheat) of six shillings and eleven-pence three farthings *per* bushel, for barley of four shillings and one penny *per* bushel, and for oats of two shillings and ten-pence three farthings *per* bushel, such respective yearly sum to be payable instead of the said rents, fines, and heriots, and other rights as aforesaid, in the nature of a rent-charge issuing out of the lands charged therewith; and such yearly sum shall be payable by two half-yearly payments on the first day of *July* and the first day of *January* in every year, the first payment (except where deferred by the said order of the said commissioners) being made on the first day of *July* next after the lands shall have been discharged from rents, fines, and heriots, and other rights as aforesaid; and such rent-charge may be recovered, at the suit of the person entitled thereto, by distress and entry, as herein-after mentioned; and after every first day of *January* the yearly sum of money thenceforth payable in respect of such rent-charge, where it shall exceed the sum of twenty shillings, shall vary so

as always to consist of the price of the same number of bushels and decimal parts of a bushel of wheat, barley, and oats respectively, according to the prices ascertained by the then next preceding advertisement; and any person entitled from time to time to any such varied rent-charge shall have the same powers for enforcing payment thereof as are herein-after contained concerning the original rent-charge; and that whenever the commutation shall be in consideration only of a fine to be payable upon death or alienation, the amount of the fine to be mentioned in the apportionment (if the same shall not exceed twenty shillings), and in other cases the value of the respective quantities of wheat, barley, and oats, which equal third parts of such fine would have purchased at the respective prices *per* bushel herein-before set forth, such value to be ascertained by the prices stated in any such advertisement so provided for as aforesaid, next preceding the event or act upon which the fine shall have become payable, shall be paid to the person in that behalf mentioned or described in the apportionment, and shall be recoverable by him in like manner as any fine upon death or alienation is now by law recoverable.*

XXXVII. Provided always, and be it enacted, that in every case in which by the agreement entered into as aforesaid any rent-charge or rent-charges shall have been left subject, in certain events, to increase or diminution, the schedule of apportionment shall set forth the events on the happening of which such increase or diminution is

Schedule to
specify in
what event a
rent-charge
is to be in-
creased or
diminished.

* See ante, note to sect. xiv.

to take place, and the amount or rate of increase or diminution respectively.

If valuers be not appointed within six months, or valuation be not made within that period, commissioners may appoint.

XXXVIII. And be it enacted, that if, upon the expiration of six calendar months after the confirmation of any agreement to be made as herein-before mentioned, no valuers shall have been appointed, or their valuation, apportionments, or schedules (as the case may be) respectively shall not have been made, and sent to the office of the said commissioners, or if any valuer appointed under or by virtue of this Act shall die or become incapable of acting, it shall be lawful for the said commissioners from time to time to appoint such competent person or persons as they shall deem fit as valuer or valuers, with the like powers and duties, and whose costs and expences shall be payable in like manner as is herein-before provided with respect to valuers to be appointed and acting under any such agreement for commutation as aforesaid.

Commissioners may hear and determine disputes ;

XXXIX. And be it enacted, that if any action or suit shall be depending touching the right to or amount of any fines or other manorial payments or incidents (except mines and minerals), or any question shall arise thereon, it shall be lawful for the said commissioners or assistant-commissioner to appoint a time and place in or near the manor for hearing and determining the same, and to inquire into, hear, and determine such right or amount, or such question or questions as aforesaid ; and the decision of the said commissioners or assistant-commissioner at such meeting, or any adjourned or renewed meeting, shall, subject to the provisions herein-after contained, be binding and conclusive on all persons to whom twenty days'

notice of the time, place, and intent of such meeting shall have been given, or left at their usual place of abode, or left with the occupying tenant of the lands to which such meeting shall relate, his, her, and their heirs, executors, administrators, and assigns, and the successors of any body politic or corporate; and such occupying tenant shall forthwith send such notice by post or otherwise to the party for whom the same was left, and in default of so doing shall be liable to the penalty of not less than five pounds and not more than twenty pounds, to be recovered before two of Her Majesty's justices of the peace on summary application in manner herein-after mentioned, and shall also be liable to pay and make good to such party all damage which he may sustain by such default, to be recovered, with full costs of suit, in an action in any of Her Majesty's courts of law at *Westminster*: provided Proviso as to rights to mines or minerals. always, that if any such decision shall directly or indirectly affect any right to mines or minerals, such decision, so far as it relates to any such right, shall be null and void, and of no effect whatever, either at law or in equity.*

XL. Provided always, and be it enacted, that Persons dissatisfied with decision may appeal by issue at law or on case stated. any person claiming to be interested in any lands, who shall be dissatisfied with any such decision of the said commissioners or assistant-commissioner, may, if the yearly value of the payment to be made or witholden according to such decision shall exceed the sum of twenty pounds, cause an action to be brought in any of Her Majesty's courts of law at

* In case the occupying tenant should be ignorant of his landlord's address, he should immediately (to save himself harmless) notify that circumstance to the commissioners, and request their instructions how to proceed.

Westminster against the person in whose favour such decision shall have been made, within three calendar months next after such decision shall have been notified in writing, in such manner as the said commissioners or assistant-commissioner shall direct, to the parties interested therein, or to their known agents, in which action the plaintiff shall deliver a feigned issue, whereby such disputed right may be tried, and shall proceed to a trial at law of such issue at the sittings after the term or at the assizes then next or next but one after such action shall have been commenced to be holden for the county within which the lands or the greater part thereof are situated, with liberty nevertheless for the court in which the same shall have been commenced, or any judge of Her Majesty's courts of law at *Westminster*, to extend the time for going to trial therein, or to direct the trial to be in another county, if it shall seem fit to such court or judge so to do; and every defendant in any such action shall enter an appearance thereto, and accept such issue; but in case the parties shall differ as to the form of such issue, or in case the defendant shall fail to enter such appearance or accept such issue, then the same shall be settled under the direction of the court in which the action shall be brought, or by any judge of Her Majesty's courts of law at *Westminster*, and the plaintiff may proceed thereon in like manner as if the defendant had appeared and accepted such issue; and the parties in such action shall produce to each other, their respective attornies or counsel, at such time and place as any judge may order, before trial, and also to the court and jury upon the trial of any such issue, all books, deeds, papers, and

writings, terriers, maps, plans, and surveys, relating to the matters in issue, in their respective custody or power; and it shall be lawful for the judge by whom any such action shall be tried, if he shall think fit, to direct the jury to find a verdict subject to the opinion of the court upon a special case; and the verdict which shall be given in any such action, or the judgment of the court upon the case subject to which the same may be given, shall be final and binding upon all parties thereto, unless the court wherein such action shall be brought shall set aside such verdict, and order a new trial to be had therein, which it shall be lawful for the said court to do if it shall see fit: provided also, that in case any such decision shall involve a question of law only, and the parties in difference shall be agreed upon the facts relating thereto, and whereon such decision shall have been founded, the said commissioners or assistant-commissioner, at the request of the person dissatisfied (such request to be made in writing within three calendar months after such decision, and at least fourteen days' previous notice in writing of such request to be given in like manner to the other parties in difference, or to their known agents), shall direct a case to be stated for the opinion of such one of Her Majesty's courts of law at *Westminster* as the said commissioners or assistant-commissioner shall think fit, which case shall be settled by them or him, or under their or his direction, in case the parties differ about the same, and may be set down for argument, and be brought before the court in like manner as other cases are brought before the court; and the decision of such court upon every case so brought.

before it shall be binding upon all parties concerned therein: provided always, that after such verdict given, and not set aside by the court, or after such decision of the court, the said commissioners or assistant-commissioner shall be bound by such verdict or decision; and the costs of every action, or of stating such case, and obtaining a decision thereon, shall be in the discretion of the court in or by which the same shall be decided, which may order the same to be taxed by the proper officer of the court, and the like execution may be had for the same as if such costs had been recovered upon a judgment of record of the said court.

Verdict to be final.

Costs.

Proceedings not to abate by death of parties.

XLII. And be it enacted, that no proceedings of or before the said commissioners or assistant-commissioner, or in any action, or in any case stated, or reference, in pursuance of this Act, shall abate or cease by reason of the death of any person interested therein.

In case of death of parties before actions brought, &c. the same to be brought and carried on in their names.

XLII. And be it enacted, that if any person in whose favour any such decision of the said commissioners or any assistant-commissioner shall have been made shall die before any such action shall have been brought or case stated, and before the expiration of the time herein-before limited for that purpose, it shall be lawful for any person who might have brought such action, or have had such case stated, against the person so dying, to bring or have the same within the time so limited as afore-said nominally against such person as if living, and to serve the said commissioners or assistant-commissioner with process and notices relating thereto in the same manner as the person deceased might have been served therewith if living; and it shall

be lawful for every person entitled to the benefit of such decision as aforesaid, or in case of any such person being a minor, idiot, lunatic, feme covert, beyond the seas, or labouring under any other legal disability, the guardian, trustee, committee of the estate, husband or attorney respectively, or in default thereof such person as may be nominated for that purpose by the said commissioners, and whom they are hereby empowered to nominate under their hands and seal, to appear and defend such action or argue such case; and proceedings shall be had therein in the like manner and the rights of all persons shall be equally bound and concluded by the event of such action or the decision of such case, as if such person had been living or free from disability; and the costs of every such action or case shall be in the discretion of the court as aforesaid.

XLIII. And be it enacted, that the said commissioners or any assistant-commissioner may, by Power to examine witnesses, call for papers, &c. summons under their or his hands or hand, require the attendance of all such persons as they or he may think fit to examine upon any matter brought before them or him, or respecting which they or he have or hath power to act as herein-before mentioned, relating to any such commutation as aforesaid, or to any enfranchisement in pursuance of the provisions herein-after contained, and also make any inquiry and call for any answer or return as to such matter, and also administer oaths, and examine all such persons upon oath, and cause to be produced before them or him, upon oath, all deeds, documents, and writings, books, court rolls, rentals, contracts, agreements, accounts, writings, papers, maps, plans, and surveys, or copies thereof respec-

tively, in anywise relating to any such matter: provided always, that no such person shall be required, in obedience to any such summons, to travel more than ten miles from the place of his abode to give evidence, or produce any deeds, papers, or writings relating to the title of any lands, unless such production shall appear to the said commissioners or assistant-commissioner essentially requisite in making the inquiries to be made under this Act.

Expences of witnesses, &c.

XLIV. And be it enacted, that the said commissioners or assistant-commissioner, in any case where they or he may see fit, may order such expences of witnesses, and of the production of any books, deeds, court rolls, contracts, accounts, or writings, maps, plans, and surveys, or copies thereof, and all other expences (except the salaries or allowance to any of the said commissioners or assistant-commissioner provided for as aforesaid) incurred in the settlement of any suit or difference, or in the hearing or determining any objection, valuation, schedule, or apportionment before the said commissioners or assistant-commissioner, to be paid by such parties interested in the production thereof respectively, or in the event of such suit, difference, or objection, and to such person or persons and in such proportions as the said commissioners or assistant-commissioner may think fit and reasonable.

Tenant paying rent-charge to be allowed the same in account with his landlord.

XLV. And be it enacted, that every tenant or occupier who shall pay any such rent-charge as aforesaid, or any expences legally chargeable under this Act upon the land of which he shall be such tenant or occupier, shall be entitled to deduct the amount from the rent payable by him to his land-

lord, and shall be allowed the same in account with his said landlord.

XLVI. Provided always, and be it enacted, that in every case in which any tenant or occupier shall show to the commissioners that he holds copyhold lands for a term of years of a tenant of any manor at a lower rent than the sum about to be imposed on the same for commutation or enfranchisement, or for the expences incurred under the provisions of this Act, it shall be lawful for the said commissioners to declare all agreements entered into under the authority of this Act null and void so far as regards such lands, and such lands shall be exempted from the provisions of this Act, unless the tenant on the court roll shall give such security, for the payment of all sums so to be charged on such lands, as shall be satisfactory to the said tenant or occupier, and to the commissioners.

Lands exempted from provisions of this Act in certain cases.

XLVII. And be it enacted, that in case the said rent-charge shall at any time be in arrear and unpaid for the space of twenty-one days next after any half-yearly day of payment, it shall be lawful for the person entitled to the same, after having given or left ten days' notice in writing at the usual or last known residence of the tenant in possession, to distrain upon the lands liable to the payment thereof or any part thereof for all arrears of the said rent-charge, and to dispose of the distress when taken, and otherwise to act and demean himself in relation thereto as any landlord may for arrears of rent reserved on a common lease for years, provided that not more than two years' arrears shall at any time be recoverable by distress.

When rent-charge is in arrear for twenty-one days after half-yearly payment, the person entitled thereto may distrain.

XLVIII. And be it enacted, that in case the

When rent-charge is

in arrear for forty days after half-yearly days of payment, and no sufficient distress on the premises, writ to be issued directing sheriff to summon jury to assess arrears.

said rent-charge shall be in arrear and unpaid for the space of forty days next after any half-yearly day of payment, and there shall be no sufficient distress on the premises liable to the payment thereof, it shall be lawful for any judge of Her Majesty's courts of record at *Westminster*, upon affidavit of the facts, to order a writ to be issued directed to the sheriff of the county in which the lands chargeable with the rent-charge are situated, requiring the said sheriff to summon a jury to assess the arrears of rent-charge remaining unpaid, and to return the inquisition thereupon taken to some one of Her Majesty's courts of law at *Westminster* on a day therein to be named, either in term time or vacation; a copy of which writ, and notice of the time and place of executing the same, shall be given to the owner of the land, or left at his last known place of abode, or with his known agent, ten days previous to the execution thereof; and the sheriff is hereby required to execute such writ according to the exigency thereof; and the costs of such inquisition shall be taxed by the proper officer of the court; and thereupon the owner of the rent-charge may sue out a writ of *habere facias possessionem*, directed to the sheriff, commanding him to cause the owner of the rent-charge to have possession of the lands chargeable therewith until the arrears of rent-charge found to be due, and the said costs, and also the costs of such writ, and of executing the same, and of cultivating and keeping possession of the lands, shall be fully satisfied; provided always, that not more than two years' arrears, over and above the time of such possession, shall be at any time recoverable.

Assess

XLIX. And be it enacted, that it shall be lawful

for the court out of which such writ shall have how to be
 issued, or any judge at chambers, to order the rendered.
 owner of the rent-charge who shall be in possession
 by virtue of such writ from time to time to render
 an account of the rents and produce of the lands,
 and of the receipts and payments in respect of the
 same, and to pay over the surplus (if any) to the
 person for the time being entitled thereunto, after
 satisfaction of such arrears of rent-charge and all
 costs and expences as aforesaid, and thereupon a
 writ of *supersedeas* to issue to the said writ of
habere facias possessionem, and also by rule or
 order of such court or judge from time to time to
 give such summary relief to the parties as to the
 court or judge shall seem fit.

L. And be it enacted, that the several provisions Powers of
 of an Act passed in the fifth year of the reign of 4 & 5 W. 4.
 His late Majesty King *William* the Fourth, int- c. 22. to ex-
 titled *An Act to amend an Act of the eleventh year* tend to rent-
of King George the Second, respecting the Apportion- charges under
ment of Rents, Annuities, and other periodical Pay- this Act.
ments, shall extend to all rent-charges payable
 under this Act.*

LI. And be it enacted, that nothing in this Act Rents, &c.
 contained shall affect any right to any rents, fines, due before
 or heriots, or any other manorial right proposed as the 1st Jan.
 next following

* By this statute it is enacted that all rent-charges, &c.
 " shall be apportioned so and in such manner, that on the
 death of any person interested in such rents, &c., or in the
 estate, fund, office, or benefice, from or in respect of which
 the same shall be issuing and derived, or on the determina-
 tion by any means whatsoever of the interest of any such
 person, he or she, and his or her executors, administrators,
 or assigns shall be entitled to a proportion of such rents, &c.
 according to the time which shall have elapsed from the
 commencement or last period of payment thereof respec-
 tively (as the case may be), including the day of the death

the confirmation not to be affected.

Power to effect a voluntary commutation.

Steward's compensation.

the subject of commutation, which shall have become due or have accrued on or before the first day of *January* next following the confirmation of the apportionment.

LII. And be it enacted, that it shall be lawful for the lord of any manor, and any one or more tenant or tenants of such manor, (whatever may be their respective interests,) to enter into an agreement, with the consent of the commissioners, for the commutation of the lord's rights to rents, fines, and heriots, or of any such rights respectively, and any other of the lord's rights affecting the land which shall be included in such agreement; and such agreement may include an apportionment of the rent-charge or other consideration for the commutation, and of the costs and expences of and attending the same, and may fix a scale of fees to be payable to the steward from and after the confirmation of the agreement, but so nevertheless as not to affect the interests of any steward in office at the time of the passing of this Act who shall hold his office for life or during good behaviour, or of any steward of a manor so in office as aforesaid where the usage shall have been such as in the opinion of the said commissioners to lead to a just expectation that the steward will hold his office

of such person, or of the determination of his or her interest, all just allowances and deductions in respect of charges on such rents, &c., being made; and that every such person, his or her executors, administrators, and assigns shall have such and the same remedies at law and in equity for recovering such apportioned parts of the said rents, &c., when the entire portion, of which such apportioned parts shall form part, shall become due and payable, and not before, as he, she, or they would have had for recovering and obtaining such entire rents, &c. if entitled thereto."

during his life or good behaviour; and every such commutation may be made in consideration of a rent-charge to commence and (where it shall exceed the sum of twenty shillings) to be variable as aforesaid, and of a fine certain (not exceeding in any case the sum of five shillings) upon death or alienation, or may be made in consideration of the payment of a fine on death or alienation; and every such rent-charge, or, where the commutation shall be a fine on death or alienation, every such fine, may be made subject to a certain increase or diminution, to be stated in the agreement, or to be afterwards fixed by valuers, (as the case may be,) in any event which may be provided for by the agreement; and whenever so many as twelve persons, being tenants or all the tenants of any manor, shall at the same time agree with the lord for any such commutation, and the agreement shall not include apportionment, it shall be lawful to effect such commutation by a schedule to be prepared by the steward, and delivered by him to the said commissioners, and to be confirmed and sealed by such commissioners under this Act; and all the provisions herein-before contained for carrying into effect a commutation apportionment made by valuers, and for the deposit of copies thereof, shall be applicable to the case of a commutation agreed upon between the lord and such number of his tenants as aforesaid, save that the said commissioners shall not make any alterations or amendments in such schedule, or the terms of such commutation, without the consent of the parties interested therein: provided always, that whenever the Proviso. estate of any party to such commutation shall be

less than an estate of fee simple in possession, or corresponding copyhold or customary estate, notice in writing shall be given by or on behalf of such party to the person entitled to the next estate of inheritance in remainder or reversion in the manor or land to be affected by such commutation, so that the assent or dissent or acquiescence of such person entitled in remainder or reversion may be stated in writing to the said commissioners when such a schedule of apportionment as aforesaid shall be sent to them, but the said commissioners shall notwithstanding cause such further notices to be given and such other inquiries to be made as they shall deem fit before confirming such apportionment; and in all cases, if the parties shall think fit, a commutation may be effected, with the consent of the said commissioners, by such conveyance, deed, or assurance as would or might be adopted for carrying into effect such commutation if the lord were seised of the manor for an absolute estate of inheritance in fee simple in possession, or by any agreement to be enrolled or entered on the court rolls of the manor, a copy thereof delivered to the tenant, as in cases of admission to lands copyhold of the manor.*

Power of lords
of manors to
recover com-
mutation fines.

LIII. And be it enacted, that the lord of any manor shall, in addition to other his remedies for enforcing admittances, and for recovery of the fine thereon now possessed in respect of fines arbitrary, be entitled to adopt and take in all cases of commutation fines, and the admittance of any person

* Subject to the observations in note, p. 125, I think that more commutations will be effected under this section than under those preceding it. Under its purely voluntary provisions, a lord and a majority of the tenants, however large, can act in concert, without harassing a dissentient minority.

whomsoever to lands held subject thereto, the like proceedings as are authorized in the admittance of infants, femes coverts, and lunatics, and recovery of fines in such admittances, in and by an Act passed in the session of the eleventh year of the reign of His late Majesty King *George* the Fourth and the first year of the reign of His late Majesty King *William* the Fourth, intituled *An Act for the consolidating and amending the Law relating to Property belonging to Infants, Femes Coverts, Idiots, Lunatics, and Persons of unsound Mind.* 11 G. 4. & 1 W. 4. c. 65.

LIV. And be it enacted, that from and after any commutation to be effected under this Act which shall not comprise all the manorial rights under which the lands the subject thereof shall be held, it shall and may be lawful for the lord and tenants for the time being, and in like manner as aforesaid, from time to time to commute any rights not previously commuted, and either in consideration of a rent-charge and fines limited as aforesaid, or of fines payable on death or alienation, and whether the original commutation was in the one mode or the other; also to provide that such additional payments shall, if of the same class, be added to and increase the payments under the original commutation or be made separately payable; also that it shall be lawful in like manner, and at any time after any such commutation or supplemental commutation, to substitute a commutation at a rent-charge and fines limited in amount as aforesaid for a commutation under this Act at fines payable on death or alienation. Power to effect supplemental or substituted commutation.

LV. And be it enacted, that after any commutation apportionment shall have been effected under Apportionment of rent and fines.

this Act, any apportionment of the commutation rents or fines, whether on the subdivision of the lands subject thereto, or whenever otherwise required, shall and may be effected by an entry of apportionment on the court rolls in like manner and with the like consent as is now used and adopted in apportionment of quit rents; and which entry the steward for the time being is hereby directed to make, whenever required and authorized so to do, by a warrant or authority in writing under the hands of the lord and tenant for the time being, stating the terms of apportionment, and requiring the entry of apportionment on the court rolls.

Power to lords
and tenants to
effect volun-
tary enfran-
chisements.

LVI. And be it enacted, that for the purpose of enabling lords and tenants of manors to effect either general or partial enfranchisements, it shall be lawful for the lord of any manor, whatever may be his estate or interest therein, with the consent of the said commissioners under this Act, at any time or times after the passing of this Act, to enfranchise all or any of the lands holden of his manor, in consideration of such sum or sums of money, whether payable forthwith or at a future time, as shall be agreed to be paid by the tenant or tenants whose lands are to be enfranchised; and it shall be lawful for any tenant, whatever may be his estate or interest, with the like consent of the said commissioners under this Act, to accept such enfranchisement on the terms so agreed on; and whenever so many as twelve persons being tenants or all the tenants of any manor shall at the same time agree with the lord for the enfranchisement of their lands, then it shall be lawful to effect such enfranchisement by a schedule of apportionment which shall

have been specifically agreed upon between the lord and tenants, and where none such shall have been agreed upon, then by a schedule of apportionment to be prepared by the steward and delivered by him to the said commissioners, such schedule to be in either case afterwards confirmed and sealed by such commissioners; and such schedule shall state the sums to be paid for enfranchisement by the several tenants, or charged on their respective lands, and the periods of the payment of the principal money respectively, or the commencement of interest, either pursuant to some apportionment to be made by valuers to be appointed by the lord and tenants, parties to the agreement, or as shall seem just to the said commissioners, having regard to all the circumstances of the case; and where any compensation shall have been agreed to be paid to the steward or other officers of the manor for the loss he or they may sustain by such enfranchisement, which compensation shall in all cases be provided for where a steward shall hold his office by patent or other instrument for the term of his life or during good behaviour, or where, in the absence of such patent or other instrument, the usage shall have been such as in the opinion of the said commissioners to lead to a just expectation that the steward will hold his office during life or good behaviour, the schedule shall contain an apportionment of the sum agreed to be paid; and every such schedule shall contain all such other matters as shall be requisite for carrying into effect the provisions of this Act; and all the provisions hereinbefore contained for carrying into execution a commutation apportionment made by valuers shall,

Steward's compensation.

Proviso.

so far as the same are capable of application, be deemed and taken to be applicable to the case of an enfranchisement under the provisions herein contained, save that the said commissioners shall not make any alterations or amendments in such schedule without the consent of the parties interested therein: provided always, that whenever the estate of any party to such enfranchisement shall be less than an estate of fee simple in possession, or corresponding copyhold or customary estate, notice in writing shall be given by or on behalf of such party to the person entitled to the next estate of inheritance in remainder or reversion in the manor or land to be affected by such enfranchisement, so that the assent or dissent or acquiescence of such person entitled in remainder or reversion may be stated in writing to the said commissioners, when such a schedule of apportionment as aforesaid, or when such conveyance, deed, or assurance as herein-after mentioned, shall be sent to them, but the said commissioners shall notwithstanding cause such further notices to be given and such other inquiries to be made as they shall deem fit before confirming such apportionment, or consenting to such conveyance, deed, or assurance: provided also, that in case the person so next entitled in remainder or reversion as aforesaid shall be a minor, idiot, lunatic, feme covert, or under any other legal disability, or shall be beyond the seas, such notice as aforesaid shall be given to the guardian, trustees, committee of the estate, husband, or attorney of such person respectively, or in default thereof, or in case the person so entitled shall be unknown or not ascertained, then such notice shall

be given to some person, to be nominated for that purpose by some writing under the hands and seal of the said commissioners, after due inquiry shall have been made by them as to the fitness of such person to judge of the propriety of assenting to or dissenting from any such agreement; and that in every case in which dissent in writing shall have been expressed, the commissioners shall withhold their confirmation of the apportionment, or their consent to the conveyance, deed, or assurance herein-after mentioned, until upon further inquiry they shall be satisfied that the agreement is not fairly open to objection.*

LVII. And be it enacted, that if such agree- For effecting
ment for enfranchisement shall not be entered into such enfran-
by all the tenants of the manor, or their number chisement if
shall be less than twelve, or whatever may be their agreement
number, if the parties shall think fit, an enfran- not entered
chisement may be effected, with the consent of the into by all
said commissioners, by such conveyance, deed, or the tenants,
assurance as would or might be adopted for effect- or their num-
ing such enfranchisement if the lord were seised, ber be less
of the manor for an absolute estate of inheritance than 12.
in fee simple in possession.

LVIII. And be it enacted, that in every case Commis-
in which any such agreement for enfranchisement sioners, be-
shall be so entered into, and shall be proposed to fore giving
be carried into effect by a schedule of apportion- their consent,
ment, the said commissioners, before they shall sig- to satisfy
nify their consent thereto, shall, upon the written themselves of
manor; and

* Till the corn-law question appears to be definitely settled, lords of manors will probably prefer enfranchisement to a commutation of their rights; and at any time it must be a more satisfactory proceeding to a tenant who can afford it.

the expences of the investigation, as well as the general expences, to be borne by the parties as may be agreed upon, and in default as the commissioners shall direct.

request of any three or more tenants, parties to the agreement, but not otherwise, satisfy themselves, in such way and by such evidence as they shall see fit, of the title of the lord to the manor; and the expence of investigating the title to the manor, and the other expences attending every such agreement, whether carried into effect by a schedule of apportionment or otherwise, and the confirmation thereof and the schedule of apportionment (if any), shall be borne by the lord and tenants, parties to such agreement, in such proportions as they may agree, or in default of agreement as the said commissioners may direct: provided always, that the expences payable by lords of manors having particular interests or being trustees shall, with any other expences they may reasonably incur in or about any such agreement (the amount of such last-mentioned expences being subject to the approval of the said commissioners), be paid out of the first monies to be received out of the enfranchisements to be effected under this Act: provided always, that if the lord shall refuse to afford such information as may enable the commissioners to be satisfied of his title, or if the commissioners shall for any other reason not be satisfied of such title, the said agreement so entered into shall be null and void.*

Payment, &c.
of enfranchise-
ment money

LIX. And be it enacted, that in all cases in which the lord for the time being shall be only entitled to the manor for a limited estate or interest

* It would not seem amiss to investigate the lord's title as a preliminary measure, with his consent. Everything that can possibly upset lengthy and expensive proceedings should be carefully inquired into at the commencement of them.

therein, or shall be under any legal disability, the sum or sums of money to be paid for enfranchisement shall be paid and applied in manner herein-after provided for.

where the lord's interest is a partial one, &c.

LX. And be it enacted, that whenever by any such agreement as aforesaid which shall be proposed to be carried into effect by a schedule of apportionment it shall have been stipulated that any tenant shall be at liberty to defer the payment of a portion of the sum charged in respect of his lands or any portion thereof, and such tenant shall give notice under his hand to the steward or lord, as herein-before directed with respect to notices in cases of commutation, of his desire to defer payment accordingly, at any reasonable time after the execution of any such agreement for enfranchisement, and before the delivery of the schedule to the commissioners, it shall be lawful for the said commissioners in their schedule of apportionment in every such case, and also, (with the consent of the lord) in the case of any such tenant giving notice as aforesaid, although no stipulation shall have been made by the agreement, to award that so much of the sum apportioned to any such tenant as shall have been charged for enfranchisement from fines or other manorial rights to which such tenant, if he possessed a life or other limited interest, would not have been liable thereafter during his tenancy, shall not be paid until the period of the next act or event on which a fine or other such manorial right would have become payable or due to the lord if the said lands had remained unenfranchised, and that within six months after such act or event the said sum shall become

Tenants may defer, in certain cases, the payment of a portion of the consideration for enfranchisement until the next event at which a fine would be payable.

payable, with such addition thereto as the said commissioners shall direct.*

When such sum becomes due the lord to be entitled to the rent and profits of the land, and may proceed to obtain possession, &c.

LXI. And be it also enacted, that as soon as the said sum, with such addition thereto, shall become payable, the lord or other person for the time being entitled to the benefit thereof shall become entitled to the rents and profits of the land in respect of which the same shall be due, unless and until he shall have received notice that such sum is become payable so that he may proceed to recover the same; and it shall be lawful for such lord or other person to proceed to obtain possession of the said rents and profits, in like manner as if the said land had been lawfully seised into the hands of the lord for some default of the tenant; provided that notice in writing stating the nature of such act or event as aforesaid, delivered by or on behalf of the tenant to the lord or other person entitled, or the clerk of the peace or other persons having the custody of the schedule of apportionment, shall be deemed sufficient notice that the said sum is payable; and as soon as the said sum is become payable the land in respect of which the same shall be due, and the beneficial owner thereof for the time being, shall be subject to the like remedies for the recovery thereof, and such sum shall become applicable in like manner, subject to any such allowance thereout as herein-after provided, as if such land had not been previously enfranchised, and the payment for the same had not been deferred.

* This is a very useful clause, enabling parties favourable to a commutation to effect the same, without being put to much expence till the arrival of the period at which they would have been compelled to pay a fine.

LXII. And be it enacted, that for the purpose of Power for
 freeing other tenants from the inconvenience to other tenants
 which in certain cases they might be subjected by to defer pay-
 an immediate liability to the payment of the sums ment of con-
 to be agreed to be paid to the lord of the manor sideration for
 for enfranchisement under this Act, it shall be law- enfranchise-
 ful for such tenant, at any reasonable time after ment.
 the execution of any such agreement for enfran-
 chisement as aforesaid (to be fixed by the said
 commissioners, and in default of their fixing any
 other limit at any other time, or until within ten
 days next previous to the delivery by the steward
 to the commissioners of the schedule of such ap-
 portionment), to declare, by notice under his hand,
 to be delivered to the lord or steward as herein-
 before provided with respect to notices in cases of
 commutation, his desire that such compensation
 money should remain a charge on the lands af-
 fected thereby for any number of years not exceed-
 ing fourteen years, or, if a tenant for life, for the
 whole period of his life and one year longer, and
 which notice the steward shall forthwith, or with
 the said schedule of apportionment, send to the said
 commissioners; and thereupon the said commis-
 sioners, with the consent of the lord, but not other-
 wise, shall insert in a column of such apportionment
 to be appropriated to such purpose the number of
 years or period for which such charge is to be con-
 tinued, and thereupon (subject as after mentioned)
 no proceedings shall be instituted during such time
 or period to enforce payment of the principal
 money so apportioned: provided nevertheless, that
 interest after the rate of four pounds *per centum per*
annum thereon shall be payable and paid half-

yearly on the days to be mentioned in such apportionment, or, if not mentioned, then at the expiration of each half year computed from the date thereof; and nothing herein contained shall extend to protect any tenant or other person from such proceedings, in case interest for one year and a half shall remain due on the principal sum apportioned or awarded or on any part thereof to the amount of one half: provided also, that during the term or period so fixed the lord shall not be compellable to receive payment of the principal money without receiving twelve calendar months' notice of the intention to pay off the same; and in case the interest on such principal sum or any part thereof shall at any time be in arrear or unpaid for thirty days after any half-yearly payment shall be due as aforesaid, it shall be lawful for the lord or party entitled for the time being to receive such interest money to levy the same by distress and sale of the goods on the lands and tenements enfranchised and affected by such enfranchisement, or any of them, as fully and in like manner as if the same had been rent in arrear, and subject to recovery by distress.*

Where payments are deferred by tenants, provision to be made for such lords as are only tenants for life.

LXIII. And be it enacted, that where the lord of the manor shall be only entitled for a limited estate or interest therein, and the said commissioners shall have deferred payment of any sum or sums for enfranchisement under the powers herein-before contained, so that instead of such lord receiving a certain sum, or the interest thereon, forthwith, he, or the lord for the time being, shall become entitled at a future period to the said deferred sum, with an addition thereto on account of the fine which would

* See last note, p. 170.

have become payable on the act or event fixing such period, or with an addition thereto on any other account, it shall be lawful for the said commissioners to award and direct that out of the money payable or chargeable forthwith for enfranchisement of any lands in such manor a certain sum of principal money shall be paid to or charged in favour of such lord as if he were absolutely seised as tenant in fee simple in possession of such manor, and such principal sum shall be paid or charged accordingly; and in case it shall happen that there shall be no money payable forthwith for enfranchisement, or not sufficient for making such allowance to the lord as aforesaid, or with the consent of the lord in any case, it shall be lawful for the said commissioners to award and direct that so much of the sum payable at a future period as they shall think adequate to his interest shall become his absolute property, and shall be paid or charged accordingly.*

LXIV. And be it enacted, that all lands which shall be enfranchised under this Act shall be deemed to be held under the same title as that under which the same were held at the time of such enfranchisement, and shall not be subject to any estates, rights, titles, interests, incumbrances, claims or demands affecting the manor of which the same were holden. Substituted titles.

LXV. And be it enacted, that the expences of General valuations, including the expence of making copies expences:

* This vests great discretionary power in the commissioners—the principle that such a payment should be made is good; but it will be found very difficult to carry out in practice. Might not some rule be laid down setting apart for the lord, under the circumstances mentioned in the section, so much *per cent.* for every year that payment may be deferred?

of apportionments, schedules, and all other documents required under the provisions of this Act, and all other expences necessary in the making any commutation or enfranchisement as aforesaid, except when otherwise provided by this Act, shall be paid by the tenants, or by the tenants and lords, in such proportions as the said commissioners shall in the confirmed apportionment, or otherwise, under their hands and seal, direct; and that if any difference shall arise touching the amount of the said expences, or the share thereof to be paid by or to any person, it shall be lawful for the said commissioners or assistant-commissioner to certify under their or his hands or hand the amount to be paid by or to such person; and in case any person shall refuse or neglect to pay the amount so certified or specified in such apportionment to be payable from him immediately after notice thereof, then, upon production of such certificate, or of either of the deposited copies, under seal, of the said apportionment, before two of Her Majesty's justices of the peace for the county, riding, division, or jurisdiction wherein the manor to which the same relates, or the greater part thereof in value as appearing in such apportionment, is situate; and on proof of such refusal or neglect such justices are hereby authorized and empowered, by warrant under their hands and seals, to cause the same, and the costs of application and distress, to be levied by distress and sale of the goods of the person liable to pay the same, and to render the surplus (if any), after deducting the costs of distress and sale, to the person distrained upon.*

* It would be very advantageous if commissioners would lay down some limit to the charges for valuations, &c., under the Act; and also some rule as to proportional expences,

LXVI. And be it enacted, that if such expences ^{Action for} shall not be levied under the said distress within ^{expences.} two months after the said warrant shall be granted it shall be lawful for the person entitled to the said expences (if the same shall, with the costs of application to such justices, amount to forty shillings or upwards), and his executors or administrators, to recover the same expences and costs, with full costs of suit, in an action of debt in any of Her Majesty's courts of law at *Westminster* against the party named in such warrant and certificate or apportionment as aforesaid, his executors or administrators, in which action such certificate or deposited copy of apportionment shall be satisfactory evidence of the amount of such expences so awarded by the said commissioners or assistant-commissioner, and of the same being due for and to the parties therein named; and the certificate of such justices under their hands on such warrant shall in like manner be evidence of the amount of costs of such application; and the production of such warrant (which in all such cases shall be allowed, and such certificate given by such justices,) shall be satisfactory evidence of the non-recovery of such expences and costs respectively under a distress.

LXVII. And be it enacted, that every tenant, ^{Expences of} being a trustee, or not beneficially interested in the ^{trustees.} lands of which he stands admitted tenant to be affected by any commutation or enfranchisement under this Act (save as against an unadmitted mortgagee), shall be entitled to recover in like manner, by distress or action respectively, all expences,

so as to enable parties desirous of availing themselves of this Act, to form some idea of the charges they would be likely to incur.

costs, and charges which he may have to pay under or by reason of any such certificate, apportionment, distress, or action, from the person beneficially interested at the date of such apportionment in the said lands, his executors, administrators, or assigns, or by a like distress on the said lands, and the occupier thereof shall be entitled to deduct any such payments out of any rent then or subsequently due; and should any dispute arise as to any trusteeship or right to such recovery, the same shall be determined by the said commissioners or assistant-commissioner in like manner as is herein-before provided with respect to other causes of dispute or difference arising under this Act, and their or his certificate shall be deemed satisfactory evidence of the facts therein stated; and the like evidence shall be produced before such justices or in such action as is herein-before provided in other cases of distress.

Copyholders having limited interests may charge costs on the lands in certain cases.

LXVIII. And be it enacted, that any tenant having a limited interest, and who shall pay any such expences or costs, may, with the consent of the said commissioners under their hands, and by a simple entry on the court rolls of the manor (and for which entry the steward shall only charge thirteen shillings and four-pence, and which shall not be subject to any stamp duty,) charge such expences and costs, with interest thereon at the rate of four pounds *per centum per annum*, on the copyhold lands to which the same shall relate, but so nevertheless that the principal charge on such lands shall be lessened in every year following such charge by one-twentieth part at least of such original charge thereon, and shall be subject to previous mortgages.

LXIX. And be it enacted, that any lord of a manor having a particular interest, or being a trustee, and who shall (in the case of a commutation) pay any such expences or costs, may, with the like consent of the said commissioners, charge such expences and costs, together with the expences he may reasonably incur in employing agents to protect his interests or otherwise, with interest thereon at the rate of four pounds *per centum per annum*, on the manor to which the same may relate, but so nevertheless that the principal charge on such manor shall be lessened in every year following such charge by one-twentieth part at least of such original charge thereon, and shall be subject to previous mortgages: provided always, that the amount of such last-mentioned expences shall have been previously submitted to and shall have received the approval of the said commissioners or of an assistant-commissioner.*

LXX. And be it enacted, that from and immediately after the date of the final confirmation of the apportionment, in the case of any such enfranchisement as aforesaid, or from the date of the conveyance, deed, or assurance by which the enfranchisement shall be effected, (as the case may be,) the several and respective lands shall stand charged and chargeable with the respective sums mentioned in such apportionment to be payable to the lord and steward or other officers respectively, with lawful interest for the same from the day mentioned in the said apportionment until payment

Expences payable by lords of manors may be charged on the manors.

Lands to be charged with enfranchisement considerations as on mortgage in fee.

* It is presumed that bishops, chapters, colleges, and others having only a life interest as lords of manors, will avail themselves of the powers conferred by this section.

thereof respectively ; and until such respective payment or payments the person or persons for the time being seised of the manor shall be deemed to stand seised of the said lands as mortgagee in fee thereof, for the benefit of the lords as to the sum payable to them, and of the said steward or other officers as to the sums payable to him or them, and subject to the power of continuing the charge as herein-before provided ; and that it shall and may be lawful for the person so seised, or the lords or stewards respectively in his name, from time to time to adopt such means and proceedings as a mortgagee in fee of freehold lands is entitled to for the enforcing payment of such principal sums and interest, with the like right to obtain payment of all attendant and incident cost and expences ; and the lord shall have power to distrain on the lands in respect of which the said sum or sums shall be payable for the purpose of recovering payment of the interest that shall be due thereon, as fully and in like manner as if the same had been rent in arrear.

Such sums
to be first
charges on
the lands.

LXXI. And be it enacted, that every such last-mentioned sum by this Act charged on any lands shall be a first charge on such lands, and shall have priority over all mortgages, charges, and incumbrances whatsoever affecting such lands, *tithe rent-charge excepted*, notwithstanding such mortgages, charges, and incumbrances shall have been or shall be respectively made and created before such sums respectively shall be charged on such lands.

Power to
mortgage.

LXXII. And be it enacted, that it shall be lawful for any tenant whose lands shall be enfranchised under this Act to charge the same (or any of them,

provided he shall hold the whole thereof under the same right and the same estate), with the payment of such sums as aforesaid (and the costs of such charges), and lawful interest thereon respectively, to any person who shall advance and lend such sums on the security of the lands so to be charged, and his executors, administrators, and assigns, and for securing the payment thereof, with such interest, to demise the said lands by way of mortgage for any term of years to the person who shall lend such sums, his executors, administrators, and assigns, or to such other person as he or they shall appoint, so as such demise be made with a proviso or condition declaring that such term shall be void on payment of the amount thereby secured, with interest thereon, at a time to be therein appointed; and such charge shall have the like priority with the original charge under this Act, and with the powers and rights to which a first mortgagee would as mortgagee by demise be entitled.

LXXIII. And be it enacted, that all monies to be paid under this Act for enfranchisement from the lord's right shall be paid to the lord of the manor, his heirs or assigns, where he shall be absolutely seised as tenant in fee simple in possession of the manor, or where, as trustee for sale or otherwise, he has power to give an effectual discharge for such monies: and where such lord for the time being shall be only entitled for a limited estate or interest therein, or shall be under any legal disability, such money, subject to any allowance which may be made thereout in respect of deferred payments herein-before mentioned, shall, in case the same shall in the whole amount to or exceed the

To whom monies for enfranchisement from lord's rights to be paid.

In case of a limited estate or disability, the money, if amounting to 200*l.* in certain cases to be paid into the Bank

of England
under 1 G. 4.
c. 35.

sum of two hundred pounds, with all convenient speed be paid into the Bank of *England* in the name and with the privity of the accountant-general of the court of exchequer, to be placed to his account there *ex parte* "the Copyhold Commissioners," pursuant to the method prescribed by an act passed in the first year of the reign of his late Majesty King *George* the Fourth, intituled *An Act for better securing Monies and Effects paid into the Court of Exchequer at Westminster on account of the Suitors of the said Court, and for the Appointment of an Accountant-general and two Masters of the said Court, and for other Purposes*, and the general orders of the said court, and without fee or reward; and shall, when so paid in, therein remain, until the same shall, by order of the said court, made in a summary way upon petition to be presented to the said court by the person or persons who would have been entitled to the rents and profits of the said manor had no such enfranchisement been made as aforesaid, be applied in the purchase of or redemption of the land tax, or in or towards the discharge of any debt or other incumbrance affecting the said manor, or affecting other lands standing settled therewith to the same or the like uses, trusts, intents, or purposes, as the said court of exchequer shall authorize to be purchased or paid, or such part thereof as shall be necessary; or until the same shall, upon the like application, be laid out, by order of the said court, made in a summary way as aforesaid, in the purchase of lands, which shall be conveyed, limited, and settled to, for, and upon such and the like uses, trusts, intents, and purposes as the said manor, or such of them as at the time of making

such conveyance and settlement shall be existing undetermined and capable of taking effect ; and in the meantime and until such purchase can be made the same money may, by order of the said court, upon application thereto, be invested by the said accountant-general in his name in the purchase of three pounds *per centum* Consolidated Bank Annuities or three pounds *per centum* Reduced Bank Annuities, or in government or real securities ; and in the meantime, and until such annuities or securities shall be ordered by the said court to be sold for the purposes aforesaid, or shall be called in or cancelled, the dividends or interest and annual produce thereof shall from time to time, by order of the said court, be paid to the person or persons who would for the time being have been entitled to the rents and profits of the said manor had no enfranchisement been made as aforesaid.

LXXIV. Provided always, and be it enacted, that if any money to be paid for the enfranchisement from the lord's rights shall be less than the sum of two hundred pounds, and shall exceed the sum of twenty pounds, after such allowance for deferred payments as aforesaid, then the same shall, at the option of the respective parties for the time being entitled to the said manor the right of which shall be enfranchised, or of their respective husbands, guardians, or committees, in case of coverture, infancy, idiotcy, lunacy, or other incapacity, be paid into the Bank of *England* in the name and with the privity of the said accountant-general, and be placed to his account as aforesaid, in order to be applied in manner herein-before directed ; or otherwise the same may be paid, at the like option,

When less
than 200*l.*
and exceed-
ing 20*l.*

to two trustees, to be nominated by the respective parties exercising such option, and such nomination and approbation to be signified in writing under the hands of the nominating parties ; and the money so paid to such trustees, and the dividends and produce so arising therefrom, shall be by such trustees applied in like manner as is herein-before directed with respect to the money to be paid into the Bank of *England* in the name of the accountant-general of the court of exchequer.

When not
exceeding 20*l*.

LXXV. Provided also, and be it further enacted, that when any money so to be paid as last herein-before mentioned shall not exceed the sum of twenty pounds for all the enfranchisements in such manor, the same shall be paid, if the said commissioners shall so direct, to the respective parties for the time being entitled to the said manor, for his own use and benefit, or, in case of coverture, infancy, idiotcy, lunacy, or other incapacity, then such money shall be paid, for their use, to their respective husbands, guardians, committees, or trustees ; and in case any dispute shall arise as to the proper application, appropriation, or investment of any enfranchisement money, according to the intention of this Act, it shall be lawful for the said commissioners to decide such question, and their decision shall be final and conclusive thereon.

In case
enfranchise-
ment money
be paid to a
lord not en-
titled thereto.

LXXVI. Provided always, and be it enacted, that if any principal money shall be paid for enfranchisement to the lord of any manor not entitled by the provisions of this Act to receive the same, the land in respect of which such principal money shall have been so paid shall continue

charged with the payment thereof in favour of the person legally or equitably entitled to the same, but with such remedies against the person who shall have wrongfully received such money as purchasers are entitled to by the rules of law or equity.

LXXVII. And be it enacted, that all sums payable under this Act for compensation to the steward shall be paid to him, his executors or administrators. Payments to stewards.

LXXVIII. And be it enacted, that the receipts of the persons to whom any sums of money shall be paid pursuant to this Act shall be sufficient discharges for the same, and the person making such payment shall not be liable to see to the application of any such sums, or be answerable for the misapplication or nonapplication thereof; and for the better evidencing such payment the steward for the said manor for the time being shall, *as to steward's compensation* forthwith after payment thereof, and *as to the payments for enfranchisements* from the lord's rights forthwith after production of receipt for the same, signed by the party entitled to sign the same, *enter on the copy apportionment to be deposited with him as aforesaid a memorandum of such payment*, and which memorandum shall, in like manner as such receipt, be deemed sufficient evidence of such payment, and discharge the lands and the person paying the same from the sums mentioned to be paid. Receipts to be sufficient discharges.

LXXIX. And be it enacted, that from and after the final confirmation of the apportionment, in the case of any commutation under this Act, or upon the execution of the deed whereby any voluntary After confirmation of the apportionment, &c. in cases of commutation the

customary
modes of de-
scend to cease,
and the lands
to descend,
and to be sub-
ject to dower
and curtesy,
in like man-
ner as freehold
lands.

commutation may have been effected, the several lands included in such commutation shall be held by copy of court roll, and shall be conveyed by surrender and admittance, in all cases in which the same shall have been previously so held and conveyed respectively, and in all other cases shall be held and conveyed in such manner as the same are now by custom held and conveyed, and shall continue parcel of the same manors as such lands would have been held of if such commutation had not taken place, but the same lands shall thenceforth cease to be subject to the customs of borough English or gavelkind, or to any other customary mode of descent, or to any custom relating to dower or freebench or tenancy by the curtesy of *England*; and all the laws relating to descents, or to estates of dower, or estates by the curtesy of *England*, which shall for the time being affect and be applicable to lands held in free and common soccage, shall thenceforth affect and be applicable to the lands included in every such commutation: provided always, that nothing herein contained as to curtesy or dower or freebench shall extend or be applicable to the case of any husband or widow who shall have been or shall be married before the final confirmation of the commutation apportionment, or the execution of such deed as aforesaid, or to alter or lessen, or in any way affect, any right which the husband or widow of any person who shall be tenant of a manor at the time of the confirmation of the said apportionment would or might have had if such commutation had not been made.

Proviso.

Gavelkind
exempted

LXXX. Provided always, and it is hereby expressly enacted and declared, that nothing in this

Act contained shall extend, or be held, deemed, or construed to extend, in any respect to affect, alter, or vary the custom of gavelkind as the same now exists and prevails in the county of *Kent*, but the same custom shall in every respect prevail and continue to prevail and be exercised in the said county, in the same manner and to the same extent, in all respects and particulars, after this Act shall have passed, as it has prevailed and existed heretofore, any thing herein contained notwithstanding.*

LXXXI. And be it enacted, that in the case of any enfranchisement under this Act, from and after the final confirmation of the apportionment, or the execution of the conveyance, (as the case may be,) the several lands therein respectively comprised and enfranchised shall become and be in all respects of freehold tenure, but subject to the payment of the enfranchisement consideration in favour of the lords and steward or other officer as aforesaid; and all mortgages affecting the same shall be deemed and become mortgages of the freehold of the same lands for a corresponding estate, if such enfranchisement consideration shall be paid off, and if not so paid off, mortgages of the equity of redemption thereof, subject to such mortgage interest as aforesaid for securing such consideration : provided

from operation of Act.

Lands to become freehold, subject to the payment of the enfranchisement consideration.

Commonable

* In the third report of the Real Property Commissioners, p. 12, it was proposed entirely to abolish this tenure, and there seems to be no great reason why gavelkind lands should be excepted from the operation of a voluntary Act like the present. The men of Kent, however, are proud of this relic of former days, and of privileges which were once more valuable than now; and such prejudices deserve respect at a period when attachment to ancient forms and institutions is not the prevailing characteristic of mankind.

rights to
remain.

Proviso for
mortgages,
wills, &c.

Other rights
of lords
not to be
affected.

Restrictions
as to this
Act.

always, that nothing herein contained shall operate to deprive any tenant of any commonable right to which he may be entitled in respect of such lands, but such right shall continue attached thereto notwithstanding the same shall become freehold: provided also, that no such enfranchisement or conversion into freehold shall affect, except as aforesaid, any mortgage, or defeat the beneficial limitations of any will or settlement theretofore executed, or alter the descent or distribution of any estate or interest in land on the decease of any tenant or person entitled thereto in possession or remainder at the time of such enfranchisement or conversion.

LXXXII. And be it enacted, that no commutation under this Act shall operate to effect any rights of lords of manors to escheats, fairs, markets, appointments, franchises, royalties, rights, liberties, and privileges of chase and free warren, hunting, hawking, fowling, and of chasing and killing game and beasts of chase and free warren, and all ancient piscaries, fisheries, and rights of fishing, or any rights in any mines and minerals or quarries within or under the said lands and hereditaments, or any other manorial rights whatever, unless expressly commuted under this Act: provided always, that nothing in this Act contained shall operate to authorize or empower any lord of any manor to enclose any common or waste lands or any part thereof.*

LXXXIII. And be it enacted, that nothing herein contained shall operate to prevent any commutation or enfranchisement which may be made in-

* Tenants will do well, whenever it is in their power, to exonerate their lands absolutely and for ever from *all* the lord's rights.

dependently of this Act; and that nothing in this Act contained shall revive any right to fines or other manorial claims which now or hereafter shall be barred by any law in force for the limitation of actions or suits.

LXXXIV. And be it enacted, that, in aid of the reservation of the lord's rights in mines and minerals lastly herein-before contained, it shall be lawful for the tenants, upon any commutation or enfranchisement under this Act, to grant to the lord of the manor such rights of entry and way, and other easements, in or upon and through their respective lands, as may be requisite for the purpose of enabling the said lord, or his agents or workmen, the more effectually to win and carry away any mines or minerals under the lands of such tenants or any of them; and that, for the purposes of such grant, it shall be sufficient, in the case of a commutation, to state the fact of such grant, and the consideration (if any) to be payable for the same, in the agreement for commutation; but in the case of an enfranchisement of lands (subject to the lord's rights in mines and minerals) such rights of entry and way, and other easements, shall be reserved and granted in the enfranchisement conveyance.

Power to tenants to grant rights of way, &c. to lords of manors for mining purposes.

LXXXV. And whereas it is expedient that facilities should be afforded by courts of equity to parties desirous of obtaining a partition of their lands of copyhold or customary tenure, but doubts are entertained whether by the practice of such courts the same can now be obtained; be it enacted and declared, that, from and after the passing of this Act, it shall be lawful for any court of equity, in any suit to be thereafter instituted therein for the par-

Courts of equity may decree a partition of lands of copyhold or customary tenure.

tion of lands of copyhold or customary tenure, to make the like decree, for ascertaining the rights of the respective parties to the suit in such lands, and for the issue of a commission for the partition of the same lands, and the allotment in severalty of the respective shares therein, as, according to the practice of such court, may now be made with respect to lands of freehold tenure.

Lords of manors, or their stewards, may, after 31st Dec. 1841, hold customary courts, although no copyhold tenant be present.

LXXXVI. And be it enacted, that, after the thirty-first day of *December* one thousand eight hundred and forty-one, it shall be lawful for the lord of any manor, or his steward, or the deputy of such steward, to hold a customary court for such manor, notwithstanding at the time of holding the same there shall not be any person who shall hold lands of such manor by copy of court roll, and also notwithstanding, if there shall at the time of holding such court be any person or persons who shall hold lands of such manor by copy of court roll, there shall not be any such person present at such court, or there shall not be more than one such person present at such court; and every court so holden shall be deemed and taken for all purposes whatsoever to be a good and sufficient customary court: provided always, that no proclamation made at any court so holden shall affect the right, title, or interest of any person not present at the same unless notice of such proclamation having been made shall be duly served, within one month after such meeting shall have been holden, on the persons whose right, title, or interest may be affected by such proclamation.*

* One would not easily comprehend what object a lord could have in holding a court in the absence of all the tenants of the manor.

LXXXVII. And be it enacted, that, after the thirty-first day of *December* one thousand eight hundred and forty-one, it shall be lawful for the lord of any manor, or his steward, or the deputy of such steward, to grant, at any time and at any place, either within or out of such manor, and without holding a court for such manor, any lands, parcel of such manor, to be held by copy of court roll, or according to the custom of the said manor, which such lord shall for the time being be authorized or empowered to grant out to be held by copy of court roll, or according to such custom, so nevertheless that such lands be granted for such estate only, and to such person only, as such lord, steward, or deputy shall for the time being be authorized or empowered to grant the same.*

LXXXVIII. And be it enacted, that after the thirty-first day of *December* one thousand eight hundred and forty-one, it shall be lawful for the lord of any manor, or his steward, or the deputy of such steward, to admit, at any time and at any place, either within or out of such manor, and without holding a court for such manor, any person as tenant to any lands, parcel of such manor, to be held by copy of court roll, or according to the custom of such manor, to and for which such person shall for the time being be entitled to be admitted.†

* The effect of this section will be to do away with that *publicity* which has hitherto constituted a peculiar feature in the transfer of copyhold property. The object is to save tenants the occasional expence of a special court, but it may be a question whether such a saving may not, in the long run, be too dearly purchased; however, this section is merely permissive—not compulsory.

† See last note.

After 31st Dec. 1841, every surrender, &c. delivered to the lord or steward, and every fact proved to the lord or steward, at any court whereat a homage shall not be assembled, shall be forthwith entered on the court rolls.

LXXXIX. And be it enacted, that, after the thirty-first day of *December* one thousand eight hundred and forty-one, every surrender and deed of surrender which the lord shall be compellable to accept or shall except, and also every will and codicil a copy of which respectively shall be delivered to the lord of the manor of which the lands affected by such surrender, deed of surrender, will, and codicil are parcel, or to his steward, or the deputy of such steward, either at any court holden for such manor at which there shall not be any homage assembled, or out of court, and also every grant and admission by the lord of any manor, or his steward, or the deputy of such steward, pursuant to this Act, shall be forthwith entered on the court rolls of the manor by such lord, or steward, or deputy; and every entry made on the court rolls of any manor pursuant to this present clause shall for all purposes whatsoever be deemed and taken to be an entry made in pursuance of a presentment made at a court holden for such manor by the homage assembled thereat; and the steward, or his deputy, shall be entitled to the same fees and other charges for making such entry on the court rolls as he would have been entitled to in respect of such entry in the same case had been made in pursuance of a presentment made at a court holden for such manor by the homage assembled thereat.

After 31st Dec. 1841, presentment by the homage shall not be essential to the validity of an admission.

XC. And be it enacted, that, after the thirty-first day of *December* one thousand eight hundred and forty-one, it shall not be essential in any case to the validity of the admission of any person, as tenant of any lands held of any manor by copy of court roll, or according to the custom of such

manor, that a presentment shall be made by the homage assembled at any court holden for such manor of the surrender, will, or other instrument, or fact, in pursuance or in consequence of which such admission shall have been granted.*

XCI. Provided always, and be it enacted, that where by the custom of any manor the lord of such manor is authorized, with the consent of the homage of such manor, to grant any common or waste lands of such manor to be holden of the lord by copy of court roll, nothing in this Act contained shall operate to authorize or empower the lord to grant any such common or waste lands without the consent of the homage assembled at a customary court holden for such manor, nor shall any court holden for such manor be deemed or taken to be a good or sufficient customary court for such purpose unless the same shall have been duly summoned and holden according to the custom of such manor in such cases used and accustomed before the passing of this Act, and unless there shall be present at such court a sufficient number of persons holding lands of such manor by copy of court roll to constitute according to such custom a homage assembled at such court.

Lords of manors in certain cases not to grant common or waste lands without consent of homage of the manor.

XCII. And whereas by the custom of certain manors the lords are restrained from granting licences to their tenants to alien their ancient tenements otherwise than by entireties; be it enacted, that from and after the passing of this Act it shall be lawful for any tenant of any such manor, by and with the licence of the lord of the manor, or

Power to lords to grant licences to tenants to alienate their ancient tenements in portions, where they are now

* It will be advisable however, whenever feasible, to adhere to the usual form of presentments.

restrained by
the custom
from so doing.

the steward thereof, (which licence such lord is hereby authorized to give, or to empower the steward to give, by any writing under his hand, to be afterwards entered upon the rolls of the manor), to dispose of his ancient tenement, or any part thereof, by devise, sale, exchange, or mortgage, in such parcel or parcels as he shall think proper, but subject to the payment of such portion or portions of the yearly customary lord's rent payable for the whole of such ancient tenements as shall be set and apportioned upon such parcel or parcels by the lord of the manor of which such ancient tenement is holden, or his steward, or the deputy of such steward; and such parcel or parcels shall, except so far as the tenure or descent thereof shall be affected by this Act, be held of the lord of the same manor in all respects, and shall be from time to time conveyed in such manner, as any such original tenement has by custom been held and conveyed.*

Awards, &c.
not liable to
stamp duties.

XCIII. And be it enacted, that no agreement, award, schedule of apportionment, or power of attorney, made or confirmed or used under this Act, shall be chargeable with any stamp duty.

False evidence
to be deemed
perjury.

XCIV. And be it enacted, that if any person under the provisions of this Act shall wilfully give false evidence he shall be deemed guilty of perjury; and if any person shall make or subscribe a false affidavit or declaration for the purposes of this Act

* The lord is authorized, but not compelled, to grant the above licence. In many cases, especially in cases of lords having limited interests as ecclesiastical lords, it would be highly improper to grant a licence to a tenant to alienate in parcels—as, by such a proceeding, the buildings on an estate might be liable to fall into decay from not having sufficient land to support them: where there are no buildings, the tenant should have every facility of partition.

he shall suffer the penalties of perjury ; and if any shall wilfully refuse to attend in obedience to any lawful summons of any commissioner or assistant-commissioner, or to give evidence, or shall wilfully alter, withhold, destroy, or refuse to produce any book, deed, contract, agreement, account, or writing, terrier, map, plan, or survey, or any copy of the same, which may be lawfully required to be produced before the said commissioners or assistant-commissioner, he shall be deemed guilty of a misdemeanor.

Withholding
evidence a
misdemeanor.

XCV. And be it enacted, that no action or suit shall be commenced against any commissioner, assistant-commissioner, justice of the peace, valuer, umpire, or surveyor, for any thing done under the authority of this Act, until twenty-one days' notice thereof shall have been given in writing to the party against whom such action or suit is intended to be brought, or after sufficient satisfaction or tender of amends shall have been made to any party aggrieved, or after three calendar months shall have expired from the commission of the Act for which such action or suit shall be so brought ; and every such action shall be brought, laid, and tried in the county or place where the cause of action shall have arisen, and not in any other county or place ; and if it shall appear that such notice of action or suit was brought before twenty-one days' notice thereof given as aforesaid, or that sufficient amends were made or tendered as aforesaid, or if any such action or suit shall not be commenced within the time before limited in that behalf, or such action shall be laid in any county or place, other than as aforesaid, then the jury shall find a verdict for the

Limitation
of actions
against com-
missioners,
assistant-com-
missioners,
justices, &c.

defendant therein, or the court, upon summary application by motion in any such suit, may dismiss the same against such defendant: and if a verdict shall be found for such defendant, or such suit shall be dismissed upon application as aforesaid, or if the plaintiff in such action or suit shall become nonsuit, or suffer a discontinuance of such action, or if upon any demurrer in such action or suit judgment shall be given for the defendant therein, then such defendant shall have costs, charges, and expences as between attorney and client.

Proceedings under this Act not to be quashed for want of form nor removed by certiorari.

XCVI. And be it enacted, that no order, adjudication, or proceeding made or had by or before the said commissioners or any assistant-commissioner under the authority of this Act, or any proceeding to be had touching any offender against this Act, shall be quashed for want of form, or be removed or removeable by certiorari or any other writ or process into any of Her Majesty's courts of record at *Westminster* or elsewhere.

Certain provisions of this Act to extend to crown manors and lands.

XCVII. And be it enacted, that the provisions of this Act enabling tenants to grant rights of way or entry and other easements to the lord of the manor in or upon and through their respective lands for mining purposes; for enabling courts of equity to decree a partition of lands of copyhold or customary tenure; for enabling lords of manors or their stewards to hold customary courts although no copyhold tenant be present, and for enabling lords or their stewards to make, out of the manors and out of court, grants of lands to be held by copy of court roll; for enabling lords or their stewards to grant admissions out of the manors and out of court; and for requiring every surrender, will, and codicil, a

copy of which shall be delivered to the lord or steward, and every fact proved to the lord or steward at any court whereat a homage shall not be assembled, to be forthwith entered on the court rolls; and determining that presentment by the homage shall not be essential to the validity of an admission, shall extend and apply to manors or lands vested in Her Majesty in right of her crown and the Duchy of *Lancaster*, and to any enfranchisement of lands, held of such manors to be effected under the powers given by any existing Act or Acts of Parliament, and to the stewards and tenants for the time being of such manors.

XCVIII. And be it enacted, that, subject as is Act to apply herein-before expressly provided, nothing in this ^{to crown lands only} Act contained shall be taken to apply to any manors ^{where expressly provided.} or hereditaments vested in Her Majesty in right of her crown or of the Duchy of *Lancaster*.

XCIX. And be it further enacted, that nothing Act not to in this Act contained shall extend or be construed ^{extend to the Duchy of Cornwall.} to extend to, or to prejudice or derogate from, the estate, right, title, interests, privileges, or authority of the Queen's most excellent Majesty, her heirs and successors, in right or in respect of her Duchy of *Cornwall*, or the possessions thereof, or of the Duke of *Cornwall* for the time being, nor at any time or times be admitted in any court of law or equity, or otherwise construed as evidence upon any occasion to be admitted against or to affect in any manner such estate, right, title, interest, privileges, or authority of Her Majesty, her heirs and successors, in right or in respect of her said Duchy of *Cornwall* or the possessions thereof, or of the Duke of *Cornwall* for the time being.

Limits of
the Act.

C. And be it enacted, that this Act shall extend only to *England, Wales, and Ireland*.

Act may be
altered this
session.

CI. And be it further enacted, that this Act may be amended or repealed by any Act to be passed in this present session of parliament.

Interpretation
clause.

CII. And be it enacted, that in the construction and for the purposes of this Act, unless there be something in the subject or context repugnant to such construction, the word "manor" shall extend to a manor or reputed manor, of whatever tenure the same may be, or to such portion or portions of a manor as the said commissioners shall, by any order in writing under their hands and seals, with the consent of the lord of the manor, signified by writing under his hand and seal, direct to be considered as a manor for the purpose of effecting any commutation or enfranchisement under this Act; the words "lord" and "steward" shall include the person or persons for the time being filling those respective characters, or acting in those respective capacities, whether those persons shall be rightfully or lawfully entitled to fill such characters or act in such capacities, or not, and the word "steward" shall also include the clerk of any manor; the words "tenant" or "tenants" shall comprise all persons holding by copy of court roll, or as customary tenants, or holding lands subject to any manorial rights, and whether holden to them and their heirs, or whether granted to two or more to be holden in succession, or holden for life or lives or years; the words "land" or "lands" shall extend to and comprise lands holden by copy of court roll, or by custom of any manor and lands holden of any lord of a manor in ancient demesne, and whether in fee

or for life or lives, or for years, and shall also comprise all lands holden of a manor subject to any manorial rights, and shall extend to messuages, tenements, and corporeal or incorporeal hereditaments subject to manorial rights, or any undivided part or share therein; the word "enfranchisement" shall extend to and include the discharge of freehold lands from heriots and other manorial rights; the word "heriots" shall include money payments in lieu thereof; the word "rents" shall include "reliefs" and "services," not being service at the lord's court; and the word "person" shall mean and include any body politic or corporate or collegiate as well as an individual; and every word importing the singular number only shall mean and include several persons or parties as well as one person or party, and several things as well as one thing respectively, and the converse; and every word importing the masculine gender only shall mean and include a female as well as a male.*

* As the word "manor" extends to a manor or reputed manor, of *whatever tenure the same may be*;—the word "tenants" includes all persons holding lands subject to any manorial rights, &c., or *holden for life or lives, or for years*;—and the word "lands" comprises lands, whether in fee, or *for life or lives, or for years*, and also all lands holden of a manor subject to any manorial rights;—it would appear that *leaseholds* are included under these descriptions, and are therefore subject to the operation of this Act. This, probably, was not intended, but it appears to me that the words can bear no other construction, and I do not observe that leaseholds are anywhere excepted.

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LONDON:

C. & E. LAYTON, 150, FLEET STREET.

FORMS OF PROCEDURE

UNDER STAT. 4 AND 5 VICT. c. 35.

* * *These Forms are intended for the guidance of Parties availing themselves of the Act, but must be varied to suit the particular circumstances of each case.*

INSTRUCTIONS AS TO FORMS OF PROCEDURE,

Under the 4th and 5th Vict. cap. 35.

THE following Forms will be found to apply to cases of Manorial Commutations—of partial Commutations, that is, by Agreements not being Manorial Agreements, as not including all the Tenants of a Manor,—and to cases where parties commuting or enfranchising, are under disability.

Nos. 1, 2, and 3, include the Notices and Declarations, which may serve to bring the parties together at a Manorial Meeting held for the purpose of effecting a commutation.

No. 4, contains Forms of Minutes of the various proceedings which may be supposed to take place at such Meetings, the most important portion of these Forms is that which relates to the Minute which is to serve as a basis of an Agreement for Commutation, No. 4, E.

When Meetings to commute are assembled, the parties may in some few cases find themselves

prepared at once to execute fully, or provisionally, a formal Agreement, and in such cases they may proceed at once to use the Form marked No. 5, and to make the Minute given in Nos. 7 or 8; but it will not often happen that the parties are prepared at once to execute such an Instrument; the most that will ordinarily be done at the first, and perhaps some subsequent Meetings, will be to assent to principles of Commutation, the details of which are subsequently to be embodied in an Agreement, and when such preliminary assent has been obtained, a Minute should be entered on the proceedings, which may serve as a record of it, and furnish the basis of a formal Agreement to be afterwards prepared.

The Forms of such Minutes as "the Basis of an Agreement," with variations to meet different cases, are given in Form No. 4, E.

No. 5, is in the Form of a Manorial Agreement to commute. Such an Agreement may be either perfect or provisional—that is, the signatures of the parties present may be sufficient to give validity to an Agreement, or insufficient. In the second case a provisional Agreement only can be executed.

One name at least must be affixed to such a Provisional Agreement at the Meeting itself, the other parties may sign within six calendar months afterwards (see s. 16.)

When an Agreement, either perfect or provisional, is signed at a Meeting, a short Minute of that fact should be recorded by the Chairman, as in Forms Nos. 7 and 8.

The Form of a Manorial Agreement, No. 5, is given to meet cases in which the Tenants, or three-

fourths of the Tenants, in number and value, can determine on the joint consideration to be given to the Lord, but cannot at once determine unanimously on the precise portion which is to be contributed by each.

In all such cases, a Manorial Agreement (Form No. 5), followed by an Apportionment under the Act, presents the only means of completing the transaction; but if all the Tenants can agree amongst themselves, or can trust a Valuer to fix for them, the sums to be paid by each of them, and can thus embody the distribution of the whole sum to be given to the Lord in a Schedule of Apportionment, to be annexed to and form part of their Agreement, they will save much of the trouble and expense necessary to complete a Manorial Apportionment under the Act.

To effect this they will use not the Form of a Manorial Agreement (No. 5), but that sort of Agreement (see Forms, Nos. 9 and 10) which any two or more Tenants are authorized to execute under sec. 52 of the Act. These Agreements require no previous Meeting to give them validity, and if Form No. 10 be used, no subsequent Apportionment.

The Act (sec. 52) allows any two or more Tenants thus to commute by Agreement partially—that is, leaving out the other Tenants, without previous Meetings, and paying no stamp duty (s. 93.); and all such Agreements may or may not contain Schedules of Apportionment. If they do not contain Schedules of Apportionment, then the Steward is to frame one which is to go through all the processes of investigation provided for in the

case of Apportionments consequent on Manorial Agreements. Under the same section, any one may agree with the Lord for commutation : but in Tenant such case there will of course be no necessity for an apportionment.

A Form of Agreement to Enfranchise, and a Schedule of Apportionment on Enfranchisement, are given in Nos. 11 and 12.

Although the Act authorises the use of partial Agreements without Schedules of Apportionment annexed, it will be very rarely indeed advisable to use such. Parties who agree to commute or enfranchise and embody the consideration to be paid by each in a Schedule forming part of the instrument itself, will at once close the whole transaction.

Those who leave a gross sum to be paid to the lord as a consideration, to be afterwards apportioned among them by others, may involve themselves in subsequent valuations, and instruments of apportionment and investigations, and perhaps conflicts, of which the expense, the delay, and the trouble may be alike formidable. It may again be remarked here, that even where the copyhold or customary lands of a whole manor are commuted or enfranchised, the parties may possibly in some few cases agree among themselves as to the consideration to be paid by each, and then the commutation or enfranchisement may at once be effected by an instrument in one of the forms Nos. 10 or 12, instead of by a Manorial Agreement in the Form No. 5 ; and if such an instrument, including a Schedule of Apportionment in the Forms Nos. 10 or 12, can be adopted, it is obvious that much of the trouble and expense will be avoided, which

will attend the completion of an apportionment consequent on a Manorial Agreement or consequent on partial Agreements, containing no Schedules of Apportionments.

When either Lord or Tenants are under disabilities, or when they have only a limited estate, such as an estate for life, &c., then it becomes the duty of the Commissioners to protect the interests of other parties, who are or may hereafter be interested in the property.

In such cases, before confirming deeds or partial agreements, the Commissioners will require to know both the value of the property and the nature of the incidents, to which it is subject; and to obtain that knowledge they will require declarations from the Steward and a Valuer—of which declarations the forms are given in Nos. 14 and 15.

When parties Enfranchise by a Schedule of Apportionment (see No. 12), they may find it useful, although not absolutely necessary under the Act, previously to sign an Agreement, of which a form is given in No. 13.

Although the form of a Power of Attorney is given in the Act (see s. 12), it is here reprinted, see No. 16.

NO. 1.—NOTICE AND ADVERTISEMENT OF MEETING, BY LORD [OR LORDS].—*Under sec. 13.*

Manor of
In the County of

I, [We] the undersigned being [the duly authorized Agent of] a Lord [*or of the Lords, as the case*

on day, the day
of next, at the hour of [eleven in
the forenoon.]

Given under my Hand [our Hands]
the day of 18

[To be signed by the parties, and where signing as Agent, to add "Agent for C. D., Lord of the said Manor."]

Note. That a Manor may be such portion or portions of a Manor as the Commissioners shall by any order in writing, with the consent of the Lord, direct to be considered as a Manor.—See s. 102.

Manor of
In the County of

We, the undersigned, being Tenants [or the duly authorized Agent or Agents of Tenants, as the case may be] of the said Manor, do, by this Notice, under our Hands, call a Meeting of the Lords and Tenants of the said Manor, for the purpose of making an Agreement for the general Commutation of the Rents, Fines, and Heriots thereafter to become due in respect of Lands holden of the said Manor, and of the Lord's rights in Timber, [or of one or more of such rights, as may be agreed upon at such meeting,] pursuant to the provisions of an Act passed in the fourth and fifth years of the reign of Her present Majesty Queen Victoria, intituled, "An Act for the Commutation of certain Manorial Rights in respect of Lands of Copyhold and Customary Tenure, and in respect of other Lands subject to such Rights, and for facilitating the Enfranchisement of such Lands, and for the Improvement of such Tenure." And we do hereby give Notice, that such Meeting will be held at, &c.,
on day, the day
of next, at the hour of [eleven in
the forenoon.]

Given under our Hands this day
of 18

[To be signed by ten Tenants of the Manor, or
their authorized Agents, or where there shall

not be so many Tenants as ten, then by one-half of the Tenants of the said Manor or their authorized Agents.—See s. 13.]

Note.—A Copy of the Notices, whether by Lord or Tenant, should be forwarded to the Copyhold Commissioners.

No. 3.—DECLARATION THAT NOTICE HAS BEEN DULY AFFIXED ON CHURCH DOOR, &c.

I, [A. B.] of, &c., do solemnly and sincerely declare, that I did on the _____ day of _____ affix on the principal outer Door of the Church of the Parish of _____ in the County of _____ being, as I do verily believe, the Parish within the limits of which the Manor of _____ in the said County or the greater part thereof in value extends, [*or did on, &c., affix on the Door or on _____ being a conspicuous part of the House, or Building, called, &c., wherein the Courts of the said Manor are usually held*], a Notice whereof a true Copy is hereunto annexed, and which Notice, to the best of my knowledge and belief, was duly signed by the persons whose names are thereunder written, and I make this solemn declaration, conscientiously believing the same to be true, and by virtue of the provisions of an Act made and passed in the fifth and sixth years of the reign of His late Majesty King William the Fourth, intituled, “An Act to repeal an Act of the present Session of Parliament, intituled An Act for the more effectual Abolition of Oaths and Affirmations

taken and made in the various departments of the State, and to substitute Declarations in lieu thereof, and for the more entire Suppression of Voluntary and Extra-judicial Oaths and Affidavits; and to make other Provisions for the Abolition of unnecessary Oaths.”

* * * *The production of the Newspapers will show that the Meeting has been duly advertized.*

NO. 4.—MINUTES OF PROCEEDINGS AT THE MEETING.

Manor of
In the County of

Proceedings of a Meeting of the Lord [*or Lords*] and Tenants of the said Manor held at, &c., on, &c., for the purpose of, &c., [*as in Notice.*] At this Meeting were present in person, &c. [*state the Names of the Lords and Tenants present, distinguishing them*] and by their Agents, &c. [*stating the parties and their respective Agents, if any.*]

A.

—
Commencement and appointment of Chairman. As to legal mode of appointing a Chairman.
See s. 16.

The Lord [*or Lords*] and Tenants present at this Meeting elected A. B. to be Chairman, and agreeably with the provisions of the said Act the Chairman did proceed to ascertain the number and interest of the Lord [*or Lords*] and Tenants present in person or by their Agents, and computing as directed by the said Act, the Lord [*or Lords*] so present appeared to be interested to the whole extent of the value, [*or to the extent of three-fourths of the value*] of the said Manor, and the Tenants so present appeared to equal in number three-fourths

of the Tenants of the said Manor, and in interest three-fourths in value as required by the said Act.

B.
—
Adjournment.
See s. 18.

The consideration of the Agreement proposed by the aforesaid Notice to be made was entered upon, but it being desired by a majority in number of the persons attending this Meeting in person or by attorney, as aforesaid, the Chairman did adjourn the Meeting to day, the day of to be then holden at, &c., at the hour of, &c., and did declare the time and place to which such adjournment was made. And Notice of such adjourned Meeting was made and given under the hand of the said Chairman, and was affixed in a conspicuous place on the outside of the building in which the said Meeting was held, and a duplicate of such Notice was in like manner made, for the purpose of being advertized agreeably with the provisions of the said Act.

Note.— When a Meeting is adjourned, it must be recollected that it is not sufficient for the Chairman to sign a Minute of such Adjournment, and then leave the Chair. He must also sign the Notices of such Adjournment, which are to be dealt with as directed by sec. 18, or all the proceedings will fall to the ground.

Manor of
In the County of

C.
—
Notice of
Adjournment.

I, [A.B.] having been duly elected Chairman of the Meeting [*or adjourned Meeting*] held on the day of 18 , at, &c., for the purpose of making an agreement, &c., [*see Notice of original Meeting*] do hereby give Notice that, in compliance with the desire of the majority

in number of the persons attending such Meeting in person or by attorney, I do adjourn the said Meeting to day, the day of 18 .

Dated this day of 18 .

(Signed) A. B., Chairman.

Manor of
In the County of

Proceedings of an adjourned Meeting of the Lord D.
[or Lords] and Tenants of the said Manor, held at, —
&c., for the purpose of, &c., [as in Notice.] [State Proceedings
the persons present, the election of Chairman, and the at Adjourned
ascertaining that a sufficient proportion were present, Meetings.
as at an original Meeting.]

At this Meeting, the Lord [or Lords] and Tenants present thereat, and such Tenants being not E.
less in number than three-fourths of the Tenants of —
the said Manor, and the interest of the Lord [or Lords] and of the Tenants so present in the Manor and Lands respectively not being less than three-fourths of the interest in the value thereof respectively, computing the interest of the Tenants as in the said Act is provided, did proceed to make an Agreement as hereinafter expressed for the Commutation of the Rents, Fines, and Heriots, from the 1st day of January next following the final confirmation of Apportionment, as by the said Act provided, to become due in respect of the Lands holden of the said Manor, and of the Lord's rights in Tim- Minute as the
Basis of an
Agreement for
Commutation.

ber, [also it was expressly agreed that such Commutation should extend to rights in Mines and Minerals.]

At a Rent-charge and Nominal Fines.

And it was further agreed, that such Commutation should be effected in consideration of an annual sum by way of a Rent-charge, and of a fixed Fine of 5s. to be paid on death or alienation in respect of every Tenement holden of the said Manor.

Entire Rent-charge to be Apportioned.

¹ And it was further agreed, that such Rent-charge should be the sum of * pounds, but to be from time to time variable according to the price of Corn, as in the said Act mentioned; such entire Rent-charge to be apportioned between the Tenants of the said Manor by Valuers as in the said Act provided, and the Lord's rights to remain as at present until such Rent-charge should commence.

Rent-charge to be subject to Increase and Diminution by Valuers.

And it was further agreed, that such sum by way of Rent-charge should be subject to increase or diminution by the Valuers to be appointed in the making such Apportionments to any proportion not exceeding per Cent., if such Valuers should

* This will be a variable corn-rent (see s. 36). If the Rent-charge shall not exceed 20s. it will not vary according to the price of corn (see s. 36).

find that the annual value of the Lands Copyhold of the said Manor should exceed or be under the sum of pounds, but the Lord is to bear no part of the expense of the Valuation, or of other charge by the Valuers under this power given to them.

Amount of Rent-charge to be fixed by Valuers.

And it was further agreed, that the amount of such annual sum or Rent-charge to be paid to the Lord [*or Lords*] should be fixed by the Valuers hereinafter appointed, or their Umpire to be appointed agreeably with the provisions of the said Act, and to be variable according to the price of Corn as in the said Act mentioned, and to be apportioned between the Tenants of the said Manor by the said Valuers or Umpire.

Net Rent-charge in respect of Fines, &c. may be postponed till next Act, &c.

Also, that so much of the Rent-charge to be apportioned for the Lands of any Tenant as should be in lieu of Fines, or other Manorial Rights, to which such Tenant would not be liable hereafter during his Tenancy, should not commence until the period of the next Act or event on which a Fine or such other Manorial Rights would have become payable or due, and the amount of such Rent-charge should then be increased accordingly; the amount of increased Rent-charge to be fixed by the Copyhold Commissioners.

[*These Forms will vary according to the particular circumstances of each case.*]

F. Also at this Meeting of,
 — &c. and of, &c.
 Appointment of Valuers, were appointed Valuers for the purposes of the
 under s. 24. said Commutation, as directed by the said Act, the
 votes on such appointment appearing in the paper
 marked , hereunto annexed.

*[To be signed by all the parties present in person
 or by attorney.]*

*[No appointment of Valuers will be valid unless
 the Agreement has been, or shall be executed
 by persons having sufficient interest.]*

Note.—It should be remembered that the whole of the Minute is only the basis of an Agreement, and when such a Minute has been made, great care must be taken legally to adjourn the meeting to some future day when a formal Agreement may be executed either fully or provisionally. The first signature to every formal agreement must be affixed at a meeting, and if after framing a Minute the parties separate *without adjourning*, a fresh meeting must be called by Notice and Advertisement, and all the proceedings gone through de novo.]

NO. 5.—AGREEMENT, FOR COMMUTATION AT RENT-CHARGE, &c.

[It should be remembered that the first signature to all formal Agreements must be affixed at a legal meeting, and care must be taken to keep meetings alive by adjournment till such an Agreement as that of which the Form follows is ripe for signature. Parties will find that they will save time and expense by sending up the Draft of the Agreement to be examined and corrected at the Copyhold Commission before it is finally prepared for execution. It should also be remembered, that the Agreement, when executed, should be forwarded to the Copyhold Commissioners.]

Manor of
In the County of

ARTICLES OF AGREEMENT, in pursuance of an Act passed in the fourth and fifth years of the reign of Her present Majesty Queen Victoria, intituled "An Act for the Commutation of certain Manorial Rights in respect of Lands of Copyhold and Customary Tenure, and in respect of other Lands subject to such Rights, and for facilitating the Enfranchisement of such Lands, and for the Improvement of such Tenure," made [and executed] at a Meeting holden [by adjournment] at, &c., on, &c., for the purpose of, &c. [see Notice] between of, &c., Lord [or Lords] of the said Manor, of the one part, and the several other persons by whom, or by whose attorney or agent, duly authorized in that behalf, these presents are executed, being Tenants of the said Manor, not less than three-fourths in number and in interest, not being less than three-fourths in value, computed agreeably with the provisions of the said Act, of the other part.

WITNESS, that at the said Meeting it hath been, and is agreed upon, by and between all the parties to these presents, to effect a Commutation of the Rents, Fines, and Heriots, to become due in respect of the Lands holden of the said Manor, from the 1st day of January next following the final confirmation of apportionment, as by the said Act provided, and also for a Commutation of the Lord's rights in Timber, [and also, by express agreement between the said parties hereto, for

Commutation of the Lord's rights in Mines and Minerals.]

That such Commutation shall be effected in consideration of an annual sum, by way of Rent-charge, and of a fixed fine of 5*s.* to be paid on death or alienation in respect of every Tenement holden of the said Manor.

That such Rent-charge shall be the sum of pounds, but to be from time to time, &c, [*see Minutes, No. 4, E.*]

[*For proviso that the same shall be subject to increase or diminution, see also Minutes No. 4, E. and the like where the amount is to be fixed by the Valuers, &c.*]

In Witness whereof the respective parties hereto, have hereunto set their Hands and Seals, the day and year first above written.

<i>Parties.</i>	<i>Witnesses.</i>
Names, Residence, and Description. Name, &c. of Attorney.	Signed, sealed, and delivered, by the parties whose names are opposite to the names of the respective witnesses, in the presence of

No. 6.—STEWARD'S STATEMENT FOR MEETINGS, &c.

Manor of
In the County of

A Statement of the several Tenants of the said Manor and of the Lands to which they respectively stand admitted for life, or otherwise, or which they hold subject to Fines, Heriots, or other Manorial

Rights, and of the amount to which the same Lands are rated to the relief of the Poor, so far as I can distinguish or estimate the same, and of the amounts received by the Lord [*or* Lords] on account of the three last Heriots in respect of any such Lands, [and of such other Information as the Copyhold Commissioners have directed me to furnish, and which I can procure and produce without prejudice to the Rights and Interests of the Lord [*or* Lords] of the said Manor.]

The following Information is to be given in Columns :

1. Names of the Tenants.—2. Copyholders, or what Class of Tenant.—3. Abstract of the Description of the Lands in the Court Rolls and in what Parishes situated.—4. Explanatory Remarks on such Descriptions.—5. Total Assessment to the Poor's-rate of the lands and others assessed therewith.—6. Estimated proportion for Copyholds or amount when separately assessed.—7. Subject to Fines, Heriots, and what other rights.—8. Amount of Receipts on account of three last Heriots.—9. A Blank Column for the Chairman to bring out the Voting value.

I declare the above Statement to be correct, so far as I can procure the Information required, agreeably with the Provisions of the Statute directing me to prepare the above Statement.

Dated, &c.

(Signed) A. B., *Steward of the said Manor.*

[Tenants should be aware that they will have to pay for this statement if they apply for it (s. 27), and should ascertain whether other tenants have ap-

plied. By the same section three Tenants must join in the application to the Steward, or it may be made by the Chairman of any Meeting, or by the Valuers.]

**No. 7.—MINUTE OF A MEETING AT WHICH AN
AGREEMENT TO COMMUTE HAS BEEN SIGNED.**

Manor of
In the County of

At this Meeting the Lord [*or Lords*] and Tenants present thereat, such Tenants being not less in number than three-fourths of the Tenants of the said Manor, and the interest of the Lord [*or Lords*] and of the Tenants so present in the Manor and Lands respectively, not being less than three-fourths of the interest in the value thereof respectively, computing the interest of the Tenants as in the said Act is provided, did proceed to make an Agreement for the Commutation of the Rents, Fines, and Heriots to become due in respect of the Lands holden of the said Manor, and of the Lord's rights in Timber, and the said Lord [*or Lords*], and the said Tenants have duly signed and executed the said Agreement.

Dated this day
of

A. B.

Chairman.

**No. 8.—MINUTE OF MEETING AT WHICH A
“PROVISIONAL” AGREEMENT TO COMMUTE
HAS BEEN SIGNED.**

Manor of

In the County of

At this Meeting the Lord [or Lords] and Tenants present thereat did proceed to make a Provisional Agreement for the Commutation of the Rents, Fines, and Heriots, to become due in respect of the Lands holden of the said Manor, and of the Lord's rights in Timber, and have duly signed and executed the said Agreement.

Dated this day of

A. B.

Chairman.

**No. 9.—AGREEMENT WITH TWO OR MORE
TENANTS FOR THE COMMUTATION OF MA-
NORIAL RIGHTS, WHEN THE RENT-CHARGE IS
NOT APPORTIONED BY THE PARTIES IN THE
AGREEMENT, BUT IS LEFT TO BE APPOR-
TIONED BY THE STEWARD.—See s. 52.**

Manor of

County of

MEMORANDUM OF AGREEMENT made the
day of 18 , between A. B., of, &c.,
Lord of the said Manor, of the first part; C. D., of
&c., a Tenant of the said Manor, of the second
part; E. F., of &c., another Tenant of the said
Manor, of the third part, &c., (*according to the*

number of the said Tenants.) *Witness*, that in pursuance of the powers and authorities for that purpose given in and by an Act passed in the fourth and fifth years of the reign of Her present Majesty Queen Victoria, intituled, "An Act for the Commutation of certain Manorial Rights in respect of Lands of Copyhold and Customary Tenure, and in respect of other Lands subject to such Rights, and for facilitating the Enfranchisement of such Lands, and for the Improvement of such Tenure," the said parties above named, Lord and Tenants of the said Manor, to the number of [or being all the Tenants of the said Manor] [with the consent of the said Commissioners under the said Act, testified by their signature and seal respectively hereupon written and impressed], do hereby contract and agree for the Commutation of the rents, fines, and heriots payable to the said Lord in respect of the lands described in Schedule hereunder written (*here specify any other rights which may be the subject of the Agreement*), in consideration of a rent-charge to be paid in respect of all the said lands described in the Schedule hereunder written, and of a fine certain of the sum of five shillings, to be paid in respect of each and every of the said lands respectively, on the death or alienation of the said several Tenants parties hereto. And it is hereby agreed that such rent-charge shall be the sum of pounds,* but shall be variable from time to time according to the price of corn, as in the said Act mentioned and provided. And it is hereby agreed, that such rent-

* This will be a variable corn-rent. See s. 36.

charge shall commence from the day of
 , and be respectively payable to the
said A.B. [and other the Lord and Lords, Lady and
Ladies, of the said Manor for the time being] half
yearly, on the first day of July, and the first day of
January, for ever hereafter, and that the first pay-
ment shall be made on the day of
next ensuing the date hereof. As witness the hands
of the said parties, the day and year first above
written.

THE SCHEDULE ABOVE REFERRED TO.

This should contain the following information, in columns :—

1	2	3
Tenants' Names.	Lands to which admitted, and the subject of Commutation.	Date of Admission.

No. 10.—AGREEMENT WITH TWO OR MORE
TENANTS FOR THE COMMUTATION OF MA-
NORIAL RIGHTS, WHERE THE RENT-CHARGE
OR OTHER CONSIDERATION FOR THE COMMU-
TATION IS APPORTIONED BY THE AGREEMENT.
—See s. 52.

Manor of
County of

MEMORANDUM OF AGREEMENT made the
day of 18 , between A. B., of, &c.,
Lord of the said Manor of the first part ; C. D., of,

&c., a Tenant of the said Manor, of the second part; E. F., of, &c., another Tenant of the said Manor of the third part [*according to the number of Tenants.*] WITNESS, that in pursuance of the Powers and Authorities for that purpose, given in and by an Act passed in the fourth and fifth years of the reign of Her present Majesty Queen Victoria, intituled, "An Act for the Commutation of certain Manorial Rights in respect of Lands of Copyhold and Customary Tenure, and in respect of other Lands subject to such Rights, and for facilitating the Enfranchisement of such Lands, and for the Improvement of such Tenure," the said parties above-named Lords and Tenants of the said Manor to the number of [or being all the Tenants of the said Manor] (with the consent of the said Commissioners under the said Act, testified by their signatures and seal hereupon written and impressed) do hereby contract and agree for the Commutation of the Rents, Fines, and Heriots payable to the said Lord in respect of the Lands described in the first Schedule hereunder written, (*here specify any other rights which may be the subject of the Agreement*), in consideration of a rent-charge as hereinafter is mentioned, [and subject to increase or decrease as hereinafter mentioned] to be paid in respect of all the said lands described in the first Schedule hereunder written, but to be apportioned as hereinafter and therein mentioned, and of a Fine certain of the sum of five shillings, to be paid in respect of each and every of the said lands respectively on the death or alienation of the said several Tenants parties hereto. And it is hereby agreed that such Rent-charge shall be the

sum of pounds,* but shall be variable from time to time, according to the price of corn, as in the said Act mentioned or provided; and that the same sum of pounds shall be apportioned in respect of the several lands at the several sums mentioned in the said first Schedule, and that such apportioned sums in respect of each of such lands shall be deemed the Commutation Rent-charge, payable in respect thereof as fully to all intents and purposes as if each of such rent-charges or apportioned sums had been fixed and agreed on between the said (Lord) and the Tenant standing admitted to the Lands in respect of which the same are so respectively apportioned. And it is hereby agreed that such rent-charge and apportionment thereof respectively shall commence from the day of , and be respectively payable [to the said A. B. and other the lord and lords, lady and ladies, of the said manor for the time being], half-yearly, on the first day of July and the first day of January for ever hereafter, and that the first payment shall be respectively made on the day of next ensuing the date hereof. And it is hereby agreed that the fees payable to the Steward of the said manor from and after the confirmation of these presents, shall not exceed the scale in the said second Schedule hereunder written. As Witness the hands of the said parties. the day and year first above written.

* This will be a variable corn-rent.—See s. 36.

THE FIRST SCHEDULE ABOVE REFERRED TO.

This should contain the following information in columns :—

1	2	3	4
Tenants' Names.	Lands to which admitted, and the subject of Commutation.	Date of Admission.	Sum apportioned in respect of each Tenement.

THE SECOND SCHEDULE ABOVE REFERRED TO.

[Scale of Steward's Fees.]

No. 11—AGREEMENT WITH TWELVE OR MORE TENANTS FOR THE ENFRANCHISEMENT OF CERTAIN LANDS WHERE THE RENT-CHARGE IS NOT APPORTIONED BY THE AGREEMENT, BUT IS LEFT TO BE APPORTIONED BY THE STEWARD.—See s. 56.

Manor of
County of

MEMORANDUM OF AGREEMENT made the
day of 18 , between A. B., of, &c.,
Lord of the said Manor, of the first part; C. D., of,
&c., a Tenant of the said Manor, of the second part;
E. F., of, &c., another tenant of the said Manor, of
the third part, &c. [according to the number of the
said Tenants.] WITNESS, that in pursuance of the
powers and authorities for that purpose given in and

by an Act passed in the fourth and fifth years of the reign of Her present Majesty Queen Victoria, intituled, "An Act for the Commutation of certain Manorial Rights in respect of Lands of Copyhold and Customary Tenure, and in respect of other Lands subject to such Rights, and for facilitating the Enfranchisement of such Lands, and for the Improvement of such Tenure," the said parties above named Lord and Tenants of the said Manor to the number

of [*or being all the Tenants of the said Manor*] do hereby contract and agree for the Enfranchisement of the Lands described in the Schedule hereunder written [*or as the case may be*] in consideration of the said sums respectively stated opposite the said lands in the said Schedule to be paid in respect of the said lands described in the Schedule hereunder written, to the said A. B., his executors, administrators, and assigns. As witness the hands of the said parties, the day and year first above written.

THE SCHEDULE ABOVE REFERRED TO.

This should contain the following information in columns :—

1	2	3	4
Tenants' Names.	Lands to which admitted, and the subject of Enfranchisement.	Date of Admission.	Sums to paid for Enfranchisement

in the County of

A SCHEDULE OF APPORTIONMENT of the Payments to be made in pursuance of an Agreement come to for the Enfranchisement of certain Lands held of the above Manor, pursuant to an Act passed in the fourth and fifth years of the reign of Her present Majesty Queen Victoria, intitled, "An Act for the Commutation of certain Manorial Rights in respect of Lands of Copyhold and Customary Tenure, and in respect of other Lands subject to such Rights, and for facilitating the Enfranchisement of such Lands, and for the Improvement of such Tenure;" (see sec. 56.)

[illegible]

We, whose hands and seals are hereunto subscribed and attached, being the Commissioners acting in the execution of the powers given under the above Act, do order the several sums above specified to be paid by the respective persons against whose names the same are inserted in the above Schedule of Apportionment. And we do direct that the several sums therein mentioned as payments to the Lord shall be paid to of, &c., And we do direct that the several sums therein mentioned as payments to the Steward shall be paid to of, &c., And we do direct that the several sums therein mentioned as payments to the Executors or Administrators, or to such person as he or they shall from time to time under his or their hand or hands appoint. And we direct that the several sums therein mentioned as Value's Costs shall be paid to the Valuers or the Survivor, his Executors or Administrators shall from time to time under their or his hands appoint. And we do hereby confirm the above Schedule of Apportionment.

Given under our hands and seals, the

day of

A. D. 18

A. C. C. } L. S.
B. C. C.
C. C.

**NO. 13.—AGREEMENT WITH TWELVE OR MORE
TENANTS FOR THE ENFRANCHISEMENT OF
CERTAIN LANDS WHERE THE RENT-CHARGE
IS INTENDED TO BE APPORTIONED BY THE
PARTIES.**

*[Parties who find it convenient to execute an Agree-
ment as a foundation for such a Schedule of Ap-
portionment as is given in No. 12, may, if they
please use the following Form.]*

*Manor of
County of*

MEMORANDUM OF AGREEMENT made the
day of _____, between A. B., of, &c. Lord
of the said Manor, of the first part; C. D., of, &c., a
Tenant of the said Manor, of the second part;
E. F., of, &c., another Tenant of the said Manor,
of the third part, &c. *[according to the number of the
said Tenants.]* WITNESS, that in pursuance of the
powers and authorities for that purpose given in
and by an Act passed in the fourth and fifth years of
the reign of Her present Majesty Queen Victoria,
intituled, “An Act for the Commutation of certain
Manorial Rights in respect of Lands of Copyhold
and Customary Tenure, and in respect of other
Lands subject to such Rights, and for facilitating
the Enfranchisement of such Lands, and for the
Improvement of such Tenure,” the said parties
above-named Lord and Tenants of the said Manor
to the number of _____ *[or being all the Tenants
of the said Manor]* do hereby contract and agree
for the Enfranchisement of the Lands described
in the Schedule hereunder written, and that they

will effect such Enfranchisement by a Schedule of Apportionment to be hereafter prepared. As witness the hands of the said parties, the day and year first above-written.

THE SCHEDULE ABOVE REFERRED TO.

This should contain the following information in columns:—

1	2	3
Tenants' Names.	Lands to which admitted, and the subject of Enfranchisement.	Date of Admission.

No. 14. DECLARATION BY STEWARD AS TO VALUE AND INCIDENTS.

Manor of, &c. } A SCHEDULE of the several Particulars required by the Copyhold Commissioners, with respect to certain Copyhold or Customary Lands, proposed to be Commuted (or Enfranchised).

1	2	3	4	5	6	7	8	9
Names of Tenants.	Copyholders, Customary Tenants, or Freeholders.	Residences.	Descriptions.	Agcs.	When more than one Tenant, whether admitted as Joint Tenants, or how otherwise.	Descriptions of Tenants on Court Rolls.	Copyhold, Customary, or Freehold.	Parish or Parishes in which situated.

10	11	12	13	14	15	16	17	18	19
If assessed to Poor's-rate jointly with other property, enter quantity of property in Assessment, (as to Tenements subject to Fines depending on annual value.)	Total Assessment.	Annual Value of Quit-rents, or Free-rents.	Whether Tenements held at Fines arbitrary on death or alienation, at Fines certain, and what amount, or how otherwise, and amount of relief and when payable.	Whether subject to Heriots, and how.	Amount received for each of the 3 last Heriots for each Tenement.	Whether subject to rights in Timber, and what.	Peculiar Customs.	Changes in Tenants during last years, where Fines payable on death or alienation.	Other Remarks.
	£. s. d.	£. s. d.							

I declare the above to be a true and correct Statement, according to my judgment and belief, of the several matters and things above mentioned.

Dated, &c.

(Signed)

A. B., Steward of the said Manor.

No. 15.

DECLARATION BY VALUER AS TO VALUE OF LANDS.

Manor of, &c. } A SCHEDULE by the undersigned Valuer, as required by the Copyhold Commissioners, with respect to
certain Copyhold or Customary Lands, proposed to be Committed (or Enfranchised).

1	2	3	4	5	6	7	8
No.	Names of Copyholders and Customary Tenants desirous of committing (or enfranchising).	Description of Tenements to be committed or enfranchised.	Explanatory Observations as to Descriptions.	Assumed Annual Value of Fines, where Tenements held at Fines certain. £. s. d.	Annual Value of Tenements held at Fines arbitrary. £. s. d.	Total Value. £. s. d.	Remarks.

I declare the above to be according to the best of my skill and judgment, the true Annual Value of the above-named Copyhold and Customary Lands, holden of the above Manor.

Dated, &c.

(Signed)

A. B. Valuer.

No. 16.—POWER OF ATTORNEY.—See s. 12.

Manor of
County of

I, A. B., of, &c., Lord [*or* Copyholder, Customary Tenant, *or* Freeholder, *as the case may be*] of the said Manor, do hereby appoint C. D., of, &c., to be my lawful Attorney, to act for me in all respects as if I myself were present and acting in the execution of an Act passed in the fourth and fifth years of the reign of Her present Majesty Queen Victoria, intituled, "An Act for the Commutation of certain Manorial Rights in respect of Lands of Copyhold and Customary Tenure, and in respect of other Lands subject to such Rights, and for facilitating the Enfranchisement of such Lands, and for the Improvement of such Tenure."

Dated this day of
 one thousand eight hundred and

(*Signed*)

A. B.

LONDON:
C. AND E. LAYTON, 150, FLEET STREET.

SUPPLEMENT
TO
"CASWALL ON COPYHOLDS."

COPYHOLDS.

COPY of the FIRST REPORT of the COPYHOLD
COMMISSIONERS to HER MAJESTY'S PRINCIPAL SECRE-
TARY of STATE for the HOME DEPARTMENT;—pursuant
to the Act 4 & 5 Vict., c. 35, s. 3.

Copyhold Commission, 17 June 1842.

SIR,

It is our duty to report to you the progress which has been made in carrying into execution the Act for the enfranchisement and commutation of Copyholds.

Under that Act, enfranchisement or commutation may be effected either by entire manors or by individuals, or bodies of individuals, forming part of the Copyhold tenantry.

Of entire manors, only one has been commuted; another in the same neighbourhood is in progress of enfranchisement. The process has been found both economical and easy; and, as a knowledge of that fact spreads, it is probable that the commutation or enfranchisement of whole manors—the most efficient mode of carrying out the Act—will become popular and more common.

Of individual enfranchisements, very few have been completed; but a considerable number are in progress.

On their own application, we have supplied forms to, and have been on other points in communication on this subject with, more than 500 persons interested in manors.

We find, however, that numerous parties professing great readiness, and in some cases eagerness, to commute or enfranchise, are moving very slowly towards their object.

The cause of their slowness seems principally this :—

However willing to proceed, both lords and tenants, over a great part of the country, seem unwilling or unable to take upon themselves the task of calculating the value of their respective interests.

We are constantly referred to, not to sanction bargains already made, but to lay down rules as to the value of incidents, and give opinions as to the proper terms in particular districts or instances.

We are hardly yet in a position to do this with confidence or propriety.

The selling value of land, and of course of the Copyhold incidents connected with land, vary in different parts of the country; the customs of manors and the burthen of the Copyhold tenure vary yet more. Customs, also, almost approaching to prescription, have in some manors established arbitrary and different modes of estimating the terms of enfranchisements.

To lay down general rules under such circumstances is and always must be impracticable.

To advise the parties in specific cases laid before us is also difficult, but not impracticable, and is becoming less difficult as we proceed.

The extensive correspondence we have adverted to; a great deal of personal communication with tenants and stewards; and the numerous inquiries we have an oppor-

tunity of making through the Assistant Tithe Commissioners and others, are gradually familiarizing us with the nature and value of Copyhold incidents in different districts; and as we become more competent confidently and readily to answer questions as to proper terms over the whole surface of the country, we have reason to believe that the progress of individual enfranchisements will be considerably accelerated.

Under the Act by which we are constituted, persons having a limited interest in manors are enabled to commute Copyhold incidents for a Corn rent-charge, leaving the tenure unchanged; but they cannot enfranchise and make the land freehold for such a consideration. The distinction was probably unintentional, and sprung from an oversight. It is inconvenient in practice, because many ecclesiastical lords and their tenants seem unwilling to deal with each other on any other terms than those of enfranchisement for a Corn rent-charge. On some convenient occasion, perhaps, the Legislature may think it useful to abolish this distinction, and to allow all persons to enfranchise as well as commute for such rent-charges.

We have the honour, &c.

WM. BLAMIRE.

T. WENTWORTH BULLER.

RD. JONES.

Rt. Hon. Sir J. Graham,
&c. &c. &c.

COPYHOLD COMMISSION.

THE Copyhold Commissioners find very many parties anxious to enfranchise or commute Copyhold Incidents, but unable to make up their minds as to proper terms on which to base their bargain.

The Commissioners are hardly yet in a position to give distinct and positive opinions on the precise value of the respective rights of Lord and Tenant, in answer to all the applications made to them from different parts of the Kingdom, and from Manors very differently circumstanced. Under these circumstances they think it may be desirable to print the following Tables, as likely to assist persons anxious to avail themselves of the Act for Enfranchising or Commuting Copyholds, but doubtful as to the terms they ought to propose or agree to.

The Tables are so arranged as to indicate the separate value of each Copyhold Incident, and have been compiled, as far as they go, from authentic sources of information.

The Commissioners have not felt themselves justified in giving the names of Manors or Parties, but the terms given may be relied on as having been acted on in Enfranchisements made previous to the existence of the Commission.

The Commissioners are fully aware that the information which they have here given is incomplete. They propose, therefore, hereafter to arrange and publish the additional materials which are still coming into their hands.

In the case of Quit Rents, Arbitrary Fines, and Heriots, the following Tables may perhaps be found generally useful.

There are cases of Copyholds paying small fines certain in which the Incidents have little or no value, and in which therefore the sum paid on Enfranchisement is obviously the consideration for the mere change of tenure. Two years' purchase of the land has been usually given in many cases in the Southern Counties of England.

TABLES
OF
TERMS ON WHICH ENFRANCHISEMENTS MAY BE MADE,
WITH
SUGGESTIONS FOR GENERAL RULES.

Counties included in Tables.	Counties not included in Tables.
Berks.	Southampton.
Bucks.	Stafford.
Cambridge.	Suffolk.
Chester.	Sussex.
Cornwall.	Westmorland.
Cumberland.	Wilts.
Devon.	York.
Dorset.	Bedford.
Durham.	Derby.
Essex.	Hereford.
Gloucester.	Lancaster.
Herts.	Leicester.
Hunts.	Monmouth.
Kent.	Northampton.
Lincoln.	Northumberland.
Middlesex.	Rutland.
Norfolk.	Surrey.
Nottingham.	Warwick.
Oxford.	Worcester.
Salop.	
Somerset.	WALES (12 Counties).

TABLE I

TERMS ON WHICH LANDS SUBJECT TO QUIT-RENTS
WERE ENFRANCHISED.

County.	Manor.	Years' purchase	County.	Manor.	Years' purchase
Berks	1 Manor .. A..	25	Norfolk	1 Manor .. A..	25
	2 Manor .. B..	25		2 Manor .. B..	30
	3 Manor .. C..	25		3 Manor .. C..	30
Bucks	1 Manor .. A..	25		4 Manor .. D..	25
Cambridge . . .	1 Manor .. A..	25	Nottingham . . .	1 Manor .. A..	25
	2 Manor .. B..	30	Somerset	1 Manor .. A..	27
Chester	1 Manor .. A..	25		2 Manor .. B..	25
Cornwall	1 Manor .. A..	27		3 Manor .. C..	25
Cumberland . .	1 Manor .. A..	30		4 Manor .. D..	25
	2 Manor .. B..	30	Southampton . .	1 Manor .. A..	25
Devon	1 Manor .. A..	25		2 Manor .. B..	25
	2 Manor .. B..	25		3 Manor .. C..	25
	3 Manor .. C..	25		4 Manor .. D..	26
Dorset	1 Manor .. A..	25		5 Manor .. E..	25
Essex	1 Manor .. A..	27	Stafford	1 Manor .. A..	25
Gloucester . . .	1 Manor .. A..	25	Suffolk	1 Manor .. A..	25
	2 Manor .. B..	25	Sussex	1 Manor .. A..	27
	3 Manor .. C..	25		2 Manor .. B..	27
	4 Manor .. D..	25		3 Manor .. C..	20
	5 Manor .. E..	25		4 Manor .. D..	25
	6 Manor .. F..	25		5 Manor .. E..	25
	7 Manor .. G..	27		6 Manor .. F..	27
	8 Manor .. H..	25		7 Manor .. G..	25
Herts	1 Manor .. A..	25		8 Manor .. H..	26
	2 Manor .. B..	30		9 Manor .. I..	27
Kent	1 Manor .. A..	28		10 Manor .. J..	27
Lincoln	1 Manor .. A..	25	Westmorland . .	1 Manor .. A..	25
Middlesex . . .	1 Manor .. A..	27		2 Manor .. B..	30

It appears, therefore, that in 35 cases 25 years were taken, but in some cases a higher average was taken never exceeding 30 years, and in one case 20 years only was taken.

∴—20 years' purchase is certainly too low. From 27 to 30 years is usually considered a fair valuation for an enfranchisement of a charge of this description.—A. C.

TABLE II.

TERMS ON WHICH COPYHOLDS OF INHERITANCE WERE
ENFRANCHISED FROM ARBITRARY FINES.

County.	Manor.	Years' purchase	
Cambridge. 1	Manor.. A..	4½	
Gloucester. 1	Manor.. A..	8½	
Herts. 1	Manor.. A..	5 to 6	
2	Manor.. B..	5½ to 6	
Hunts. 1	Manor.. A..	6	
Nottingham 1	Manor.. A..	10	
2	Manor.. B..	7	
Stafford. ... 1	Manor.. A..	4	
2	Manor.. B..	4	{ with a deduction of 15 to 30 per cent. according to state of repair.
Sussex 1	Manor.. A..	6	On admission of Heir & Purchaser.
2	Manor.. B..	4	On admission of Purchaser.
3	Manor.. C..	6	
4	Manor.. D..	5 to 6	
5	Manor.. E..	6	
6	Manor.. F..	5	
7	Manor.. G..	5½	
8	Manor.. H..	5½	
9	Manor .. I..	6	
10	Manor .. J..	6	
11	Manor.. K..	8	
Westmorland 1	Manor.. A..	4½	
York, w. n. 1	Manor.. A..	5 to 7	

Note.—A great deal must depend on the age of the Tenant in possession.—A. C.

TABLE III.

TERMS ON WHICH COPYHOLDS HELD FOR THREE LIVES
WERE ENFRANCHISED.

County.	Manor.	Years' purchase		Age of Lives.
Berks	1 Manor.. A..	7 $\frac{1}{2}$	.....	42 43 14
	2 Manor.. B..	8	.....	37 33 17
	3 Manor.. C..	6	.....	53 20 60
Bucks.	1 Manor.. A..	7	.....	15 10 13
Chester.	1 Manor.. A..	„	{ Reversion 7 $\frac{1}{2}$ Houses Ct. 5 $\frac{1}{2}$ }	24 33 25
	1 Manor.. A..	8	.....	38 32 7
Devon	1 Manor.. A..	12	.....	16 3 11
	2 Manor.. B..	16 $\frac{1}{2}$	.....	40 37 15
Dorset	1 Manor.. A..	6	.....	35 30 25
Gloucester ..	1 Manor.. A..	6	.....
	2 Manor.. B..	6	.....
	3 Manor.. C..	6	{ Extra Charge for advanced Age £7.16s. }	
	4 Manor.. D..	7	.....	24 9 6
	5 Manor.. E..	7	.....	24 9 6
	6 Manor.. F..	6	.....
	7 Manor.. G..	6	.....
Somerset . . .	1 Manor.. A..	13 $\frac{1}{2}$	.....	14 14 13
	2 Manor.. B..	7 $\frac{1}{2}$	.....	44 17 9
	3 Manor.. C..	7	.....	54 48 45
	4 Manor.. D..	5 $\frac{1}{2}$	.....	7 6 5
Southampton	1 Manor.. A..	7 $\frac{1}{2}$	.....	22 20 30
	2 Manor.. B..	8	.....
	3 Manor.. C..	7	.....	36 24 20
Sussex	1 Manor.. A..	6	.....
	2 Manor.. B..	8	.....	73 50 50
	3 Manor.. C..	8	.....	— 23 19
	4 Manor.. D..	10	.....
Wilts	1 Manor.. A..	7 $\frac{1}{2}$	.....	26 21 16

Note.—The calculations upon which these returns have been framed, have evidently been made upon different principles; for, in Berks, the average of three lives on A, is 33 years—on B, 25 $\frac{1}{2}$ —on C, 44 $\frac{1}{2}$; therefore, C should have paid the highest fine, A the next highest, and B the lowest; whereas, B has paid the highest fine, A the next, and C the lowest.

In Somerset, the average of the three lives on A, is 13 $\frac{1}{2}$ —on B, 23 $\frac{1}{2}$ —on C, 49—and on D, 6; therefore, C should have paid the highest fine, B the next highest, A the third, and D the lowest; whereas, B has paid the highest fine, C the second, D the third, and A the lowest.

This, I think, will shew the necessity of having some fixed tables to go by as soon as may be: in the mean time, however, these returns are not otherwise than useful.—A. C.

TABLE IV.

TERMS ON WHICH COPYHOLDS HELD FOR SIX LIVES
WERE ENFRANCHISED.

County.	Manor.	Years' purchase.	Age of Lives.
Gloucester	1 Manor A	4	.....
	2 Manor B	4	.....
	3 Manor C	4	.....
	4 Manor D	4	.....
	5 Manor E	4	.....
	6 Manor F	4	{ 60 25 23 26 28 13
	7 Manor G	4	.....

TABLE V.

TERMS ON WHICH COPYHOLDS HELD FOR FIVE LIVES
WERE ENFRANCHISED.

County.	Manor.	Years' purchase.	Age of Lives.
Somerset	1 Manor A	6	{ 64 38 17 23 24
	2 Manor B	6	{ 25 24 80 40 22

TABLE VI.

TERMS ON WHICH COPYHOLDS HELD FOR SINGLE LIVES
WERE ENFRANCHISED.

County.	Manor.	Years' purchase.	Age of Tenant.
Cambridge	1 Manor A	3	48
	2 Manor B	2 $\frac{1}{2}$	50
	3 Manor C	3	34

Note.—In neither of these cases do I think that a fair sum has been paid to the lord.—A. C.

TABLE VII.

TERMS FOR WHICH LANDS WERE ENFRANCHISED FROM HERIOTS.

County.	Manor.	Heriots.	.		
			℥.	s.	d.
Hunts.....	Manor...A....	Heriots 2½			
Oxford.....	Manor...A....	Heriots 2½			

TABLE VIII.
SUMS PAID FOR SINGLE HERIOTS.

County.	Manor.	Heriots.	Consideration. £. s. d.	
Gloucester ..	Manor . . A.	13	{ Reducing the scale for more than 1 heriot. Sheep heriot, or 6d. on death or alienation.
Somerset ...	Manor . . A.	.....	6
Southampton	Manor . . A.	On Death or Surrender.....	16	
	Manor . . B.	On Surrender only.....	41	
	Manor . . A.	On Death or Surrender in kind.....	21	
	Manor . . B.	On Death only in kind.....	14	
	Manor . . C.	On Death or Surrender.....	21	
	Manor . . D.	On Death only.....	14	
	Manor . . E.	.....	15
	Manor . . F.	19 Heriots at 20s. each.....	19	
	Manor . . G.	Heriot.....	1	
	Manor . . H.	Heriot 6d. on Death or Alienation.....	1	
	Manor . . I.	Heriot 5s. at 28 years.....	7	
	Manor . . J.	2 Heriots (being best beasts) arising out of 8 acres of land.....	30	
	Manor . . K.	2 Heriots (being best beasts) in respect of 1a. 2r. 0p. of land.....	30	
	Manor . . L.	5 Heriots.....	100	
	Manor . . M.	Heriot (best beast) on Death or Alienation (freehold tenement).....	13	
	Manor . . N.	11 Heriots on Death or Surrender at £20. each.....	220	
	Manor . . O.	Heriot on Death.....	13	
	Manor . . P.	1 Heriot out of 40 acres of land.....	11	
	Manor . . Q.	Heriot.....	1	
	Manor . . R.	Heriot a sheep of the value of.....	1	
	Manor . . A.	3 Heriots being 3 parcels.....	17	
Westmorland			2	{ 1 parcel, £20. 3 parcels £15, every additional parcel £2d. 2s.

Note.—Ascertain the usual sum paid for a heriot, and take $1\frac{1}{2}$ on death only, and $2\frac{1}{2}$ if payable on death and alienation. A heriot of £20. would, in the first case, be compounded for £30.; in the second, for £50.—A.C.

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